

EXHIBIT “2”

CONDENSED TRANSCRIPT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

VIKING YACHT COMPANY, a
New Jersey Corporation and
POST MARINE CO., INC., a
New Jersey Corporation,

Plaintiffs,

vs. NO. 05-CV-538 (JEI/JS)

CURRAN COMPOSITES, INC.,
a Missouri Corporation,
C TWO LLC, a foreign
Limited Liability Company,
and TOTAL COMPOSITES, INC.,
a Delaware Corporation
jointly d/b/a COOK
COMPOSITES AND POLYMERS,
a fictitiously named
Delaware Partnership,

Defendants.

Videotaped deposition of
DAVID E. JONES, III, taken at the law
offices of BUCHANAN INGERSOLL &
ROONEY, P.C., 1835 Market Street,
14th Floor, Philadelphia, PA, on
Wednesday, January 30, 2008,
commencing at approximately 9:09 a.m.
before Joanne Rose, a Registered
Professional Reporter, Certified
Realtime Reporter and Notary Public,
pursuant to notice.



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<p style="text-align: center;">2</p> <p>1 APPEARANCES:</p> <p>2 BERGER SINGERMANN</p> <p>3 MICHEL O. WEISZ, ESQUIRE</p> <p>4 mweisz@bergersingerman.com</p> <p>5 200 South Biscayne Boulevard</p> <p>6 Suite 1000</p> <p>7 Miami, Florida 33131-5308</p> <p>8 305-755-9500</p> <p>9 and</p> <p>10 HENRY J. TYLER, ESQUIRE</p> <p>11 htylerlaw@comcast.net</p> <p>12 Society Hill Office Park</p> <p>13 1874 Route 70 East, Suite 4</p> <p>14 Cherry Hill, New Jersey 08003</p> <p>15 856-751-2282</p> <p>16 Appearing on behalf of Plaintiffs</p> <p>17 BUCHANAN INGERSOLL & ROONEY, P C</p> <p>18 STEVEN E. BIZAR, ESQUIRE</p> <p>19 steven.bizar@bipec.com</p> <p>20 MEREDITH MYERS LeCONEY, ESQUIRE</p> <p>21 meredith.leconey@bipec.com</p> <p>22 1835 Market Street</p> <p>23 14th Floor</p> <p>24 Philadelphia, Pennsylvania 19103</p> <p>25 215-665-8700</p> <p>26 Appearing on behalf of Defendants</p> <p>27 ALSO PRESENT:</p> <p>28 Jack Lynch, Videographer</p> <p>29 EXAMINATION INDEX</p> <p>30 DAVID E. JONES</p> <p>31 BY MR. BIZAR 7</p>	<p style="text-align: center;">4</p> <p>1 EXHIBIT INDEX (CONTINUED)</p> <p>2 MARKED</p> <p>3 Jones</p> <p>4 10 Four-page document 129</p> <p>5 containing e-mail dated</p> <p>6 3/23/05 to F. Moser, et</p> <p>7 al. from Y. Colon and</p> <p>8 attached documents, Nos.</p> <p>9 VK132781-VK132784</p> <p>10 11 Two-page document 131</p> <p>11 containing note from the</p> <p>12 Desk of Juan Beltran with</p> <p>13 attached e-mail, Nos.</p> <p>14 VK132685 and VK132687</p> <p>15 12 Two-page document 133</p> <p>16 containing e-mail dated</p> <p>17 12/4/02 to Al Uhl, et al.</p> <p>18 from J. Beltran with</p> <p>19 attached note, Nos.</p> <p>20 VK132670 and VK132669</p> <p>21 13 Three-page document 135</p> <p>22 containing e-mail dated</p> <p>23 12/9/02 to D. Passarelli</p> <p>24 from J. Beltran with</p> <p>25 attached handwritten</p> <p>26 notes, Nos. VK1326668</p> <p>27 -66 and -67</p> <p>28 14 U.S. District Court 140</p> <p>29 Subpoena</p> <p>30 15 Multi-page document 153</p> <p>31 indicating results of</p> <p>32 exposure testing, Nos.</p> <p>33 DEJ00648-DEJ00710</p> <p>34 16 Multi-page document 157</p> <p>35 containing Technical</p> <p>36 Requests, e-mails and</p> <p>37 analytical reports, Nos.</p> <p>38 DEJ00712-DEJ000773</p>
<p style="text-align: center;">3</p> <p>1 EXHIBIT INDEX</p> <p>2 MARKED</p> <p>3 Jones</p> <p>4 1 Curriculum Vitae of David 12</p> <p>5 E. Jones, III</p> <p>6 2 Five-page letter/report 61</p> <p>7 to M. Weisz from D. Jones</p> <p>8 3 Two-page letter/e-mail to 66</p> <p>9 D. Jones from S. Murphy</p> <p>10 dated 4/7/04</p> <p>11 4 Five-page Viking document 104</p> <p>12 with boat dimensions</p> <p>13 Nos. VK003599-VK003603</p> <p>14 5 Three-page CCP Internal 116</p> <p>15 Report document dated</p> <p>16 9/17/03, Nos.</p> <p>17 CCP06822-CCP06824</p> <p>18 6 Two-page document 119</p> <p>19 containing e-mail series</p> <p>20 the first of which is</p> <p>21 dated 5/20/05 to J.</p> <p>22 Kasinski from B. Heller</p> <p>23 Nos. VK003952-VK003953</p> <p>24 7 Two-page document from 121</p> <p>25 Juan Beltran dated</p> <p>26 1/19/2000, Nos.</p> <p>27 VK132461-VK132462</p> <p>28 8 One-page e-mail dated 124</p> <p>29 6/19/03 to S. Blair from</p> <p>30 J. Beltran, No. VK132448</p> <p>31 9 One-page e-mail to Drew 127</p> <p>32 Davala, et al. from J.</p> <p>33 Beltran, No. VK132447</p>	<p style="text-align: center;">5</p> <p>1 EXHIBIT INDEX (CONTINUED)</p> <p>2 MARKED</p> <p>3 Jones</p> <p>4 17 One-page e-mail series, 172</p> <p>5 the first of which is</p> <p>6 dated 9/10/04 to J.</p> <p>7 Kasinski, et al. from I.</p> <p>8 Rutt, No. VK004124</p> <p>9 18 Five-page document 177</p> <p>10 containing fax</p> <p>11 transmittal dated 9/20/04</p> <p>12 to Mr. Jones with</p> <p>13 attached e-mail and</p> <p>14 thermogram graphs, Nos.</p> <p>15 VK004116-VK004120</p> <p>16 19 Multi-page CCP report 187</p> <p>17 entitled "Determination</p> <p>18 of the Root Cause of</p> <p>19 Cracking in Viking Boat</p> <p>20 #55-945 and attached</p> <p>21 letter," Nos. DEJ</p> <p>22 00191-DEJ197</p> <p>23 20 Three-page letter dated 196</p> <p>24 4/23/04 to D. Sweetman</p> <p>25 from R. Mannella, Nos.</p> <p>26 VK001622-VK001624</p> <p>27 21 Four-page document 202</p> <p>28 containing DJ&A invoices</p> <p>29 Nos.</p> <p>30 DEJ-002-000002-DEJ-002-000005</p>



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<p style="text-align: center;">6</p> <p>1 THE VIDEOGRAPHER: We're 2 now on the video record. 3 This is the videotape 4 deposition of David Evan Jones taken 5 by the defense in the matter of 6 Viking Yacht Company and Post Marine 7 Co., Incorporated v. Curran 8 Composites, Incorporated, C Two LLC, 9 Total Composites, Incorporated, 10 jointly Cook Composites And Polymers, 11 in the United States District Court 12 for the District of New Jersey, 13 Number 05-CV-538. 14 Held at the offices of 15 Buchanan Ingersoll & Rooney, PC, 1835 16 Market Street, 14th Floor, 17 Philadelphia, Pennsylvania, on 18 Wednesday, January 30, 2008, at 19 9:09 a.m. 20 I'm Jack Lynch, the 21 videographer. The court reporter is 22 Joanne Rose. We are from the firm of 23 James DeCrescenzo Reporting in 24 Philadelphia, Pennsylvania.</p>	<p style="text-align: center;">8</p> <p>1 marine engineer. My specialty is 2 structural composites. 3 Q. When you say your specialty 4 is structural composites, what do you 5 mean by that? 6 A. Essentially it's all the 7 ingredients, the fibers, resins, 8 cores that go into the building of a 9 composite yacht or a fiberglass yacht 10 or a marine craft of some sort. 11 Q. And with regard to those 12 ingredients that you just identified, 13 what do you do as a specialist in 14 structural composites relative to 15 those ingredients? 16 A. I owned a test laboratory 17 for 11 years and we tested strictly 18 composites. The failure modes and 19 the strengths and weaknesses of the 20 composites. 21 I've designed composite 22 structures for a variety of yachts. 23 I've done a lot of failure analysis 24 of why boats break and how to repair</p>
<p style="text-align: center;">7</p> <p>1 Will counsel please 2 introduce themselves. 3 MR. WEISZ: Michel Weisz 4 and Henry Tyler on behalf of the 5 plaintiffs. 6 MR. BIZAR: Steve Bizar and 7 Meredith LeConey on behalf of the 8 defendant. 9 THE VIDEOGRAPHER: The 10 reporter will swear in the witness. 11 DAVID E. JONES, III, having 12 been duly sworn, was examined and 13 testified as follows: 14 EXAMINATION 15 BY MR. BIZAR: 16 Q. Mr. Jones, good morning 17 A. Good morning. 18 Q. Would you please state your 19 full name for the record? 20 A. My name is David Evan Jones 21 and I'm a third. 22 Q. What is your occupation, 23 sir? 24 A. I'm a naval architect and a</p>	<p style="text-align: center;">9</p> <p>1 them. 2 Q. Take me briefly through 3 your educational background, if you 4 would. 5 A. I have a Bachelor's of 6 engineering, mechanical engineering, 7 from Steven's Institute of Technology 8 in Hoboken, New Jersey, and with a 9 specialization in small craft design. 10 Q. Do you have any additional 11 degrees beyond that? 12 A. No, sir. 13 Q. Do you have any special 14 training beyond the Bachelor's degree 15 of mechanical engineering? 16 A. No formal education other 17 than that. 18 Q. You're not a chemist? 19 A. No, sir. 20 Q. You're not a chemical 21 engineer? 22 A. No, sir. 23 Q. You're not a lawyer? 24 A. No, sir.</p>



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<p style="text-align: center;">10</p> <p>1 Q. People always laugh when I</p> <p>2 ask that question. I can never quite</p> <p>3 grasp why.</p> <p>4 You have no special</p> <p>5 training in warranty law?</p> <p>6 A. No, sir.</p> <p>7 Q. Do you see warranties in</p> <p>8 your practice?</p> <p>9 A. Quite often.</p> <p>10 Q. Do you see warranties for</p> <p>11 materials?</p> <p>12 A. Occasionally, yes.</p> <p>13 Q. Do you see warranties for</p> <p>14 gel coats?</p> <p>15 A. Yes.</p> <p>16 Q. Do you see warranties by</p> <p>17 boat builders for their boats?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Are you aware of any boat</p> <p>20 builders who warrant gel coat</p> <p>21 cracking?</p> <p>22 A. No, sir, I'm not.</p> <p>23 Q. Are you aware of any gel</p> <p>24 coat manufacturers who warrant gel</p>	<p style="text-align: center;">12</p> <p>1 nature, yes.</p> <p>2 Q. Let's just mark that and</p> <p>3 we'll be sure that we're on the same</p> <p>4 page. That will save us some time.</p> <p>5 A. Yeah.</p> <p>6 MR. BIZAR: This will be</p> <p>7 Jones Exhibit 1.</p> <p>8 (Exhibit Jones 1 was marked</p> <p>9 for identification.)</p> <p>10 BY MR. BIZAR:</p> <p>11 Q. Mr. Jones, the court</p> <p>12 reporter has handed you a copy of the</p> <p>13 CV that I just mentioned and we've</p> <p>14 had that marked as Jones Exhibit 1.</p> <p>15 Take a moment, look through it. Just</p> <p>16 confirm for me, if you would, that</p> <p>17 that's accurate as of August 2007.</p> <p>18 A. Yes, sir.</p> <p>19 Q. Have there been any</p> <p>20 developments in your professional</p> <p>21 work since August 2007 that you need</p> <p>22 to report to me to make this</p> <p>23 up-to-date and current?</p> <p>24 In other words, have you</p>
<p style="text-align: center;">11</p> <p>1 coat cracking as opposed to that the</p> <p>2 gel coat would meet its</p> <p>3 specifications as manufactured?</p> <p>4 A. No, sir.</p> <p>5 Q. No, sir, you're not aware</p> <p>6 of any?</p> <p>7 A. I'm not aware of any.</p> <p>8 Q. Now, tell me -- you've</p> <p>9 identified some of the things that</p> <p>10 you've done. Just -- well, let me do</p> <p>11 it this way.</p> <p>12 You've provided us together</p> <p>13 with the report that you issued in</p> <p>14 this case, which we'll be discussing</p> <p>15 shortly, a curriculum vitae, a CV,</p> <p>16 that listed your work history and</p> <p>17 some other things.</p> <p>18 Do you recall that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Was that accurate as of the</p> <p>21 date it was provided to us, which was</p> <p>22 August 24, 2007?</p> <p>23 A. As far as my work history</p> <p>24 and publications and things of that</p>	<p style="text-align: center;">13</p> <p>1 taken on any additional positions or</p> <p>2 jobs beyond those that are identified</p> <p>3 in this document, Exhibit 1?</p> <p>4 A. No. The only thing that</p> <p>5 may not be up-to-date is the trial</p> <p>6 and deposition cases.</p> <p>7 Q. Have you testified in any</p> <p>8 cases beyond those listed on the</p> <p>9 second-to-last page of Exhibit 1?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Tell me the names of those</p> <p>12 cases.</p> <p>13 A. Matthew Trainer vs.</p> <p>14 Charleston Harbor Marina; Gary Wyatt</p> <p>15 vs. Luhrs; Frank Feltham vs. Luhrs.</p> <p>16 Q. Can you spell Mr. Feltham's</p> <p>17 name?</p> <p>18 A. Capital F-e-l-t-h-a-m.</p> <p>19 Q. And Luhrs is?</p> <p>20 A. L-u-h-r-s.</p> <p>21 Q. Okay. Any other cases</p> <p>22 beyond those three?</p> <p>23 A. Well, I was engaged in</p> <p>24 another one which was Austin Spencely</p>



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<p style="text-align: center;">14</p> <p>1 vs. Luhrs but before my deposition</p> <p>2 that one was settled.</p> <p>3 Q. You did work and issued a</p> <p>4 report in that case?</p> <p>5 A. Yes, sir.</p> <p>6 Q. I take it from this list of</p> <p>7 cases you've been through this</p> <p>8 process before.</p> <p>9 So just let me tell you, if</p> <p>10 you have a question or you don't</p> <p>11 understand one of my questions, let</p> <p>12 me know. I'll reformulate the</p> <p>13 question. I want to make sure you</p> <p>14 understand the question.</p> <p>15 If you answer a question</p> <p>16 without telling me, I'm going to</p> <p>17 assume that you understood the</p> <p>18 question and that the answer you gave</p> <p>19 was in response to my question. Is</p> <p>20 that fair?</p> <p>21 A. That's fair.</p> <p>22 Q. Okay. Tell me what the</p> <p>23 business of D.E. Jones & Associates</p> <p>24 is.</p>	<p style="text-align: center;">16</p> <p>1 began — withdrawn.</p> <p>2 Since 1990, 1991 an aspect</p> <p>3 of your work has included working</p> <p>4 with lawyers in contested matters —</p> <p>5 A. Yes, sir.</p> <p>6 Q. — involving marine issues?</p> <p>7 A. Yes, sir, composite issues.</p> <p>8 Q. Okay. And how many such</p> <p>9 matters have you worked on since</p> <p>10 1990, 1991?</p> <p>11 A. That's hard to say, maybe</p> <p>12 20 or so.</p> <p>13 Q. Would it be more than 30?</p> <p>14 A. I don't think so.</p> <p>15 Q. If there are ten listed on</p> <p>16 your CV and an additional three that</p> <p>17 have occurred since your CV was</p> <p>18 provided to us, plus this one, that</p> <p>19 takes us to 14.</p> <p>20 Do you think there are an</p> <p>21 additional six or ten out there</p> <p>22 beyond these?</p> <p>23 A. There's probably another</p> <p>24 six. I don't think there would be</p>
<p style="text-align: center;">15</p> <p>1 A. D.E. Jones & Associates has</p> <p>2 been a consulting company since 1987.</p> <p>3 We have performed services,</p> <p>4 everything from designing new</p> <p>5 facilities for production boat</p> <p>6 builders, establishing quality</p> <p>7 control procedures for builders,</p> <p>8 originating original designs for</p> <p>9 various builders, quality</p> <p>10 inspections, forensic analysis, a lot</p> <p>11 of why did my boat break and how do I</p> <p>12 fix it kind of things.</p> <p>13 Q. And is that the business</p> <p>14 through which you do your work as an</p> <p>15 expert witness for litigated,</p> <p>16 contested matters in court?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And have you been involved</p> <p>19 in that field since 1987?</p> <p>20 A. Working with lawyers in</p> <p>21 litigation and things of that nature</p> <p>22 probably didn't happen until about</p> <p>23 '90, '91.</p> <p>24 Q. But since 1990, 1991 you</p>	<p style="text-align: center;">17</p> <p>1 another ten.</p> <p>2 Q. Okay. And Revenge Advanced</p> <p>3 Composites, which is listed as</p> <p>4 something that you're also involved</p> <p>5 in, tell me what the business of that</p> <p>6 company is.</p> <p>7 A. Revenge Advanced Composites</p> <p>8 is a builder of high-end sport</p> <p>9 fishing boats and special purpose</p> <p>10 craft. We use — we use techniques</p> <p>11 from the aerospace industry to</p> <p>12 construct the product.</p> <p>13 Q. Where is Revenge Advanced</p> <p>14 Composites based?</p> <p>15 A. They're in Clearwater,</p> <p>16 Florida.</p> <p>17 Q. Are you an owner of that</p> <p>18 business?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And you're an owner of D.E.</p> <p>21 Jones & Associates?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Do you have any partners?</p> <p>24 A. In D.E. Jones?</p>



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<p style="text-align: center;">18</p> <p>1 Q. Yes.</p> <p>2 A. No, sir.</p> <p>3 Q. Do you have any partners in</p> <p>4 Revenge Advanced Composites?</p> <p>5 A. Yes, I do.</p> <p>6 Q. How many?</p> <p>7 A. Oh, I have three major</p> <p>8 partners and maybe a dozen what we</p> <p>9 call class B partners.</p> <p>10 Q. Are any of your major</p> <p>11 partners affiliated in any way with</p> <p>12 Viking Yacht Company?</p> <p>13 A. No, sir.</p> <p>14 Q. Are any of your major</p> <p>15 partners affiliated with Post Marine</p> <p>16 Company?</p> <p>17 A. No, sir.</p> <p>18 Q. Are any of your class B</p> <p>19 partners affiliated with either of</p> <p>20 those two companies?</p> <p>21 A. No, sir.</p> <p>22 Q. With regard to your</p> <p>23 testifying experience, let's talk</p> <p>24 about that.</p>	<p style="text-align: center;">20</p> <p>1 Q. And who hired you in that</p> <p>2 matter, the plaintiff or the</p> <p>3 defendant?</p> <p>4 A. That was Trump Towers.</p> <p>5 Q. And they were the</p> <p>6 plaintiff?</p> <p>7 A. Trump Taj Mahal, they were</p> <p>8 the plaintiff.</p> <p>9 Q. They were the party that</p> <p>10 experienced the failure?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And what was your opinion</p> <p>13 as to the cause of the failure in</p> <p>14 that matter?</p> <p>15 A. That was the -- the dyes on</p> <p>16 the metal flake were inferior and</p> <p>17 experienced color shifts, dramatic</p> <p>18 color shifts. There were also some</p> <p>19 manufacturing issues where on some</p> <p>20 parts they had applied a clear coat</p> <p>21 and some parts they had not.</p> <p>22 Q. Manufacturing issues with</p> <p>23 regard to the dyes or manufacturing</p> <p>24 issues -- I'm sorry. Withdrawn.</p>
<p style="text-align: center;">19</p> <p>1 Your work on the Trump Taj</p> <p>2 Mahal Associates vs. Dumont matter,</p> <p>3 what were you asked to do in that</p> <p>4 case?</p> <p>5 A. That was a failure of the</p> <p>6 coatings and what I did there was</p> <p>7 analyze what the issues were, how</p> <p>8 widespread it was and what the cause</p> <p>9 of the problem was.</p> <p>10 Q. What were the coatings in</p> <p>11 question?</p> <p>12 A. They were mostly metal</p> <p>13 flake gel coats and clear coats.</p> <p>14 Q. Who manufactured them?</p> <p>15 A. I don't think I recall.</p> <p>16 Q. On what were they applied?</p> <p>17 A. They were applied onto what</p> <p>18 I affectionately call gingerbread.</p> <p>19 It's architectural cladding that goes</p> <p>20 on the side of a building to</p> <p>21 represent a theme.</p> <p>22 Q. And they're exposed to the</p> <p>23 elements on the side of the building?</p> <p>24 A. Yes, sir.</p>	<p style="text-align: center;">21</p> <p>1 Manufacturing issues with</p> <p>2 regard to the coatings themselves or</p> <p>3 with regard to the application of the</p> <p>4 coatings to whatever they were</p> <p>5 applied to?</p> <p>6 A. It was just the</p> <p>7 application, whether they put the</p> <p>8 clear coat on or not.</p> <p>9 Q. Okay. So part of your</p> <p>10 opinion cast blame on the coating</p> <p>11 manufacturer and part on the builder</p> <p>12 of the piece?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And were you -- did you</p> <p>15 testify in a deposition in that</p> <p>16 matter?</p> <p>17 A. Yes, I did.</p> <p>18 Q. And did you testify at</p> <p>19 trial?</p> <p>20 A. No, sir.</p> <p>21 Q. Do you know what the</p> <p>22 resolution of the matter was?</p> <p>23 A. There was a settlement</p> <p>24 offer.</p>



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<p style="text-align: center;">22</p> <p>1 Q. In the Underwriters at 2 Lloyds London matter vs. Michael T. 3 and Eric V. Gray, what was the 4 subject of your work in that case? 5 A. Louisiana. Let's see. 6 Hang on. Oh, I remember that one. 7 That was a keel that fell off a 8 sailboat. 9 Q. So your opinion did not 10 have anything to do with coatings in 11 that matter? 12 A. Correct. 13 Q. And did you testify in that 14 case? 15 A. Yes, sir. 16 Q. By deposition? 17 A. By deposition and in court. 18 Q. Were you found qualified as 19 an expert in that case? 20 A. Yes, sir. 21 Q. Have you ever not been 22 found to be qualified as an expert? 23 A. No, sir. 24 Q. Each time that you've been</p>	<p style="text-align: center;">24</p> <p>1 Construction case? 2 A. No, sir. 3 Q. Deposition? 4 A. Yes. 5 Q. In the Backwin, Global 6 Insurance and Albany Insurance 7 Company of New York vs. Delta Marine, 8 who hired you, the plaintiff or the 9 defendant? 10 A. That was Delta Marine. 11 That would be the defendant. 12 Q. And what was the subject of 13 your work in that case? 14 A. There was a claim of faulty 15 construction. 16 Q. Of what? 17 A. Of the hull and the rudder 18 configuration. 19 Q. And your claim was that the 20 construction – your opinion was that 21 the construction was not faulty? 22 A. Correct. 23 Q. And what was the resolution 24 of that case?</p>
<p style="text-align: center;">23</p> <p>1 offered, you've been accepted as an 2 expert? 3 A. That's correct. 4 Q. In the Black & Gold 5 Construction Company case what 6 opinion did you offer? 7 A. There was a construction 8 error and a faulty repair in that 9 boat. 10 Q. Who engaged you in the 11 Black & Gold Construction case, the 12 plaintiff or the defendant? 13 A. The plaintiff. 14 Q. And going back to the 15 Underwriters case, who hired you 16 there? 17 A. That would have been the – 18 Q. The plaintiff again? 19 A. I think that was 20 Underwriters. 21 Q. Which was the plaintiff? 22 A. Yes, sir. 23 Q. And did you testify at 24 trial in the Black & Gold</p>	<p style="text-align: center;">25</p> <p>1 A. Delta prevailed. 2 Q. You testified at trial? 3 A. No. 4 Q. By deposition? 5 A. Yes, sir. 6 Q. Did the case settle or did 7 it not go to trial? 8 A. I'm not sure I know. 9 Q. Chase-Freedman Family Trust 10 vs. Broward Marine, what was the 11 subject of your work in that case? 12 A. That one, it was a claim 13 that the boat was unstable and this 14 was after nine years of use. The 15 owner of the boat decided that the 16 boat was a little tippy and he sued 17 Broward and I represented Broward. 18 Q. And your conclusion in that 19 case was that the boat was not tippy 20 as a result of any manufacturing 21 problem? 22 A. That's correct. 23 Q. Did you testify at trial? 24 A. Yes, sir.</p>



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<p style="text-align: center;">26</p> <p>1 Q. And in deposition?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And what was the result in</p> <p>4 that case?</p> <p>5 A. Broward prevailed.</p> <p>6 Q. Who did you -- who hired</p> <p>7 you in the Northern Island Nautical</p> <p>8 Associates, Limited case?</p> <p>9 A. Doug Nash.</p> <p>10 Q. The plaintiff, in other</p> <p>11 words?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And what was the subject of</p> <p>14 your work in that case?</p> <p>15 A. That was mainly</p> <p>16 hydrodynamics and stability of the</p> <p>17 vessel.</p> <p>18 Q. And what was your opinion?</p> <p>19 A. That the boat really was</p> <p>20 okay.</p> <p>21 Q. And did you testify in</p> <p>22 court in that case?</p> <p>23 A. No, sir.</p> <p>24 Q. Deposition?</p>	<p style="text-align: center;">28</p> <p>1 deposition?</p> <p>2 A. Deposition and trial.</p> <p>3 Q. And what was the resolution</p> <p>4 there?</p> <p>5 A. I think there was a little</p> <p>6 give-and-take on that one.</p> <p>7 Q. It was resolved, settled?</p> <p>8 A. Yes.</p> <p>9 Q. Mariah Boats, Inc. vs.</p> <p>10 Owens-Corning, who hired you in that</p> <p>11 matter?</p> <p>12 A. That was Mariah, the</p> <p>13 defendant.</p> <p>14 Q. Mariah is the plaintiff.</p> <p>15 A. Or plaintiff.</p> <p>16 Q. Yes. What was the subject</p> <p>17 of your work?</p> <p>18 A. That was -- that was a case</p> <p>19 where boats were blistering before</p> <p>20 they even got out of the factory and</p> <p>21 it was due to a change in resin made</p> <p>22 by the resin supplier.</p> <p>23 And as we found out, it was</p> <p>24 a bad formulation of resin that</p>
<p style="text-align: center;">27</p> <p>1 A. Yes, I believe I did.</p> <p>2 Q. What was the result; do you</p> <p>3 know?</p> <p>4 A. It was settled so I really</p> <p>5 don't know the result.</p> <p>6 Q. That's fine. The next case</p> <p>7 listed on your list is John F.</p> <p>8 Inganamort & Pleasurecraft, Inc. vs.</p> <p>9 Insurance Company of North America.</p> <p>10 Who hired you in that</p> <p>11 matter?</p> <p>12 A. That was John Inganamort.</p> <p>13 Q. So the plaintiff?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And what was the subject of</p> <p>16 your work in that matter?</p> <p>17 A. That was a boat that was</p> <p>18 dropped in the travel lift. The</p> <p>19 travel lift transmission failed and</p> <p>20 dropped the boat and we were -- I was</p> <p>21 there talking about extent of damage</p> <p>22 and what it would take to repair the</p> <p>23 boat.</p> <p>24 Q. Did you testify at</p>	<p style="text-align: center;">29</p> <p>1 continued on for three years.</p> <p>2 Q. And did you testify in</p> <p>3 court in that matter?</p> <p>4 A. No. That one never got to</p> <p>5 court.</p> <p>6 Q. You testified in</p> <p>7 deposition?</p> <p>8 A. Yes, I believe I did.</p> <p>9 Q. The case was settled?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And when you say resin, you</p> <p>12 don't mean gel coat? You mean a</p> <p>13 different back-up or a laminating</p> <p>14 resin?</p> <p>15 A. That's correct.</p> <p>16 Q. Just so we're on the same</p> <p>17 page, if you're referring to gel</p> <p>18 coat, I'd appreciate it if you'd</p> <p>19 refer to gel coat. And if you're</p> <p>20 referring to some other type of</p> <p>21 resin, just use the term resin.</p> <p>22 A. I will.</p> <p>23 Q. It makes it easier for us.</p> <p>24 MR. WEISZ: I'm just going</p>



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<p style="text-align: center;">30</p> <p>1 to object to that, but we can discuss</p> <p>2 that later. I just want to note an</p> <p>3 objection on the record as to the</p> <p>4 form.</p> <p>5 MR. BIZAR: Okay.</p> <p>6 BY MR. BIZAR:</p> <p>7 Q. The Weinstein matter, who</p> <p>8 did you work for in that matter?</p> <p>9 A. The plaintiffs.</p> <p>10 Q. And what was the subject of</p> <p>11 your work?</p> <p>12 A. That was a series of, I</p> <p>13 believe, five boats that all had the</p> <p>14 same structural issues and I</p> <p>15 testified on these structural issues.</p> <p>16 Q. Did you testify at</p> <p>17 deposition and in trial?</p> <p>18 A. Both.</p> <p>19 Q. What was the result in that</p> <p>20 case?</p> <p>21 A. The court awarded repair</p> <p>22 costs.</p> <p>23 Q. The Domenech matter, who</p> <p>24 did you work for in that matter?</p>	<p style="text-align: center;">32</p> <p>1 Q. So your client did not</p> <p>2 prevail?</p> <p>3 A. Correct.</p> <p>4 Q. In the Matthew Trainer vs.</p> <p>5 Charleston Harbor Marina case that</p> <p>6 you mentioned –</p> <p>7 A. Yes, sir.</p> <p>8 Q. – what was your – who</p> <p>9 hired you in that matter?</p> <p>10 A. Charleston Harbor.</p> <p>11 Q. And what was the subject of</p> <p>12 your work?</p> <p>13 A. There was a claim of bad</p> <p>14 fuel caused the boat to sink.</p> <p>15 Q. And I take it your opinion</p> <p>16 put the blame on some other factor?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Where was the case pending?</p> <p>19 A. Charleston Harbor or</p> <p>20 Charleston, South Carolina.</p> <p>21 Q. Okay. In federal or state</p> <p>22 court?</p> <p>23 A. I believe that was federal</p> <p>24 court.</p>
<p style="text-align: center;">31</p> <p>1 A. I believe that was</p> <p>2 Domenech.</p> <p>3 Q. And what was the subject of</p> <p>4 your work in that matter?</p> <p>5 A. That was a case where the</p> <p>6 owner claimed faulty construction,</p> <p>7 blisters, poor blister repair and</p> <p>8 things of that nature.</p> <p>9 Q. And your opinion was</p> <p>10 supporting those claims?</p> <p>11 A. Well, actually, no. No, it</p> <p>12 didn't. The repair was adequate, but</p> <p>13 the blisters were just an artifact of</p> <p>14 the construction.</p> <p>15 Q. And what was the result in</p> <p>16 that matter? Well, first of all, did</p> <p>17 you testify in court?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And in deposition as well?</p> <p>20 A. That's correct.</p> <p>21 Q. And what was the result in</p> <p>22 that case?</p> <p>23 A. I don't believe the</p> <p>24 plaintiff got any relief.</p>	<p style="text-align: center;">33</p> <p>1 Q. What was the year? I guess</p> <p>2 it was – I'm sorry. It's not listed</p> <p>3 here.</p> <p>4 A. It would have been just</p> <p>5 last year.</p> <p>6 Q. End of 2007?</p> <p>7 A. Yeah. Mid 2007 maybe.</p> <p>8 Q. And the Gary Wyatt matter,</p> <p>9 did you testify for the plaintiff or</p> <p>10 the defendant?</p> <p>11 A. That one is ongoing. And I</p> <p>12 worked with Gary Wyatt.</p> <p>13 Q. In all of these matters</p> <p>14 involving Luhrs, is it fair to say</p> <p>15 that you're working for the plaintiff</p> <p>16 against Luhrs?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Have you testified yet in</p> <p>19 the Gary Wyatt matter?</p> <p>20 A. No, sir.</p> <p>21 Q. What court is that pending</p> <p>22 in?</p> <p>23 A. I'm not really sure I know.</p> <p>24 Q. Okay. And the Feltham</p>



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<p style="text-align: center;">34</p> <p>1 matter, what court is that pending 2 in? 3 A. That was also Charleston. 4 Q. Do you know if it's federal 5 or state? 6 A. That I think is federal and 7 they settled. 8 Q. Did you give testimony in 9 that matter, the Feltham matter? 10 A. I wrote a report and I 11 believe I had a deposition on that 12 one. 13 Q. Are there any other 14 litigated cases that you can remember 15 by name in which you've been 16 involved? 17 A. Not off the top of my head, 18 no, sir. 19 Q. Is the only case in which 20 you've been involved and given 21 testimony that directly involves gel 22 coat or coatings of a gel coat sort, 23 the Trump Taj Mahal case? 24 A. Yes. The Mariah case vs.</p>	<p style="text-align: center;">36</p> <p>1 you've issued in this case, which 2 we'll be talking about, I take it 3 that your opinion does not address in 4 any way, shape or form blistering, 5 porosity, chalking or color matching? 6 A. Correct. 7 Q. So those issues, to the 8 extent they exist or are phenomena of 9 gel coat or gel coat and some 10 combination of substrates, are not 11 subjects that you'll be offering 12 testimony about at trial? 13 A. Correct. 14 Q. Now, you have provided a 15 written report in this case? 16 A. Yes, sir. 17 Q. And you understand that you 18 have an obligation in that report to 19 make a full and complete disclosure 20 of the materials that you consulted 21 and relied upon in your work; is that 22 right? 23 A. That's correct. 24 Q. And you've done that in</p>
<p style="text-align: center;">35</p> <p>1 AOC was also a gel coat blistering 2 phenomenon, but it was related to the 3 substrate and not the gel coat. 4 Q. You're familiar with the 5 concept of blistering, obviously? 6 A. Yes, sir. 7 Q. And you're also familiar, I 8 presume, with the concept of 9 porosity? 10 A. Yes, sir. 11 Q. And you're familiar with 12 the concept of chalking? 13 A. Yes, sir. 14 Q. And you're familiar with 15 the problem of color matching? 16 A. Yes, sir. 17 Q. All of these issues relate 18 to gel coats, among other coatings? 19 A. Gel coat formulations, yes. 20 Q. Okay. 21 A. With the exception of 22 blistering. Blistering may or may 23 not be a gel coat phenomenon. 24 Q. With regard to the opinion</p>	<p style="text-align: center;">37</p> <p>1 your report? 2 A. Yes, sir. 3 Q. In other words, the 4 materials listed in your report are 5 the materials that you consulted and 6 relied on in forming your opinions? 7 A. Yes, sir. 8 Q. And other than maybe your 9 own experience and learning from 10 working in the field in which you 11 work, there are no other materials 12 that directly bear on this case that 13 you considered in forming your 14 opinions; is that right? 15 A. That is also right. 16 Q. And your written report 17 contains the opinions that you would 18 testify to if accepted at trial; is 19 that right? 20 A. That's correct. 21 Q. There are no other opinions 22 not in that report that you would 23 offer? 24 A. No, sir.</p>



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<p style="text-align: center;">38</p> <p>1 Q. Have you worked previously</p> <p>2 prior to this case with Mr. Weisz?</p> <p>3 A. No.</p> <p>4 Q. Have you worked previously,</p> <p>5 meaning prior to this case, with Mr.</p> <p>6 Tyler?</p> <p>7 A. No, sir.</p> <p>8 Q. Did you do anything to</p> <p>9 prepare for your deposition</p> <p>10 testimony?</p> <p>11 A. I read my report again.</p> <p>12 Q. Other than that? Did you</p> <p>13 do anything to prepare for your</p> <p>14 deposition testimony?</p> <p>15 A. No, sir.</p> <p>16 Q. You didn't review any</p> <p>17 documents?</p> <p>18 A. No.</p> <p>19 Q. You didn't speak to</p> <p>20 anybody?</p> <p>21 A. I had dinner with Mr. Weisz</p> <p>22 last night.</p> <p>23 Q. I hope he picked up the</p> <p>24 tab.</p>	<p style="text-align: center;">40</p> <p>1 in my records. Sigma has been -- I</p> <p>2 sold the business, I believe, in '99</p> <p>3 and I'd really have to go back to my</p> <p>4 records to find out exactly what we</p> <p>5 did. Most likely it was laminate</p> <p>6 testing.</p> <p>7 Q. So this was a situation</p> <p>8 where Viking would have hired you or</p> <p>9 this company, Sigma Laboratories, to</p> <p>10 do testing on some laminates that</p> <p>11 they were considering using or using?</p> <p>12 A. You're correct.</p> <p>13 Q. And is that something that</p> <p>14 your business at that time, Sigma</p> <p>15 Laboratories, did a fair amount of?</p> <p>16 A. Yes, sir. We did quite a</p> <p>17 bit.</p> <p>18 Q. And was that the first</p> <p>19 engagement that Viking had with you?</p> <p>20 A. Well, I've known the</p> <p>21 Healeys from about 1983. They</p> <p>22 actually bought the company that I</p> <p>23 was working for at the time in 1987</p> <p>24 or late 1986.</p>
<p style="text-align: center;">39</p> <p>1 A. Yes.</p> <p>2 Q. Have you worked previously</p> <p>3 with Viking Yacht Company prior to</p> <p>4 your engagement as an expert in this</p> <p>5 case?</p> <p>6 A. Yes, I believe I have.</p> <p>7 Q. Tell me about that work.</p> <p>8 What have you done previously in any</p> <p>9 prior assignments with Viking Yacht</p> <p>10 Company?</p> <p>11 A. I believe it was mostly</p> <p>12 with Sigma Laboratories. Sigma was a</p> <p>13 division of D.E. Jones & Associates</p> <p>14 and I believe we did some testing for</p> <p>15 them.</p> <p>16 Just through being in the</p> <p>17 industry for the last 20-some-odd</p> <p>18 years, I've known the Healeys through</p> <p>19 business associates.</p> <p>20 Q. Let's break those down.</p> <p>21 What work did you do</p> <p>22 through Sigma Laboratories for Viking</p> <p>23 Yacht Company?</p> <p>24 A. I'd really have to go back</p>	<p style="text-align: center;">41</p> <p>1 Q. What company was that?</p> <p>2 A. That was Gulfstar Yachts.</p> <p>3 Q. And did you continue</p> <p>4 working for Gulfstar Yachts after</p> <p>5 they purchased it?</p> <p>6 A. The deal actually went</p> <p>7 through in the fall of '87 and I</p> <p>8 departed Gulfstar in March of '87.</p> <p>9 Q. So you had a brief overlap</p> <p>10 before the deal closed?</p> <p>11 A. Yes, sir.</p> <p>12 Q. In which you were working</p> <p>13 for the Healeys?</p> <p>14 A. Not actually working. They</p> <p>15 took over in the fall of '87.</p> <p>16 Q. I see.</p> <p>17 A. So I never actually worked</p> <p>18 for them.</p> <p>19 Q. Okay. But since that time</p> <p>20 you've known them?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And how has that -- how has</p> <p>23 knowing them manifested itself? Have</p> <p>24 you seen them socially?</p>



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<p style="text-align: center;">42</p> <p>1 A. No. No. I don't believe</p> <p>2 I've ever had a social engagement</p> <p>3 with them.</p> <p>4 Q. Have you seen them</p> <p>5 professionally?</p> <p>6 A. Yes. It would be at boat</p> <p>7 shows and things of that nature.</p> <p>8 Q. And the Healeys are the</p> <p>9 owners of Viking; is that right?</p> <p>10 A. Correct. And particularly</p> <p>11 I'm talking about Bob and Bill.</p> <p>12 Q. Not Pat?</p> <p>13 A. I know Pat, but I just</p> <p>14 recently met him.</p> <p>15 Q. Did you meet him in</p> <p>16 connection with this case?</p> <p>17 A. Yes, sir.</p> <p>18 Q. When did you meet Pat in</p> <p>19 connection with this case?</p> <p>20 A. It would have been when I</p> <p>21 first went to see the Tortora boat,</p> <p>22 which was a Viking 55. And I guess</p> <p>23 this was early....</p> <p>24 Q. 2004, 2005?</p>	<p style="text-align: center;">44</p> <p>1 well?</p> <p>2 A. Oh, certainly.</p> <p>3 Q. Do manufacturers also have</p> <p>4 the ability to test the way that gel</p> <p>5 coat or coatings interact with their</p> <p>6 laminates or their laminate</p> <p>7 structures?</p> <p>8 In other words, if the</p> <p>9 manufacturer wanted to test a</p> <p>10 particular gel coat with its</p> <p>11 laminate, would that be something</p> <p>12 that could be done?</p> <p>13 A. There's a couple of ways of</p> <p>14 testing gel coat, yes, sir.</p> <p>15 Q. And is that something that</p> <p>16 has been available to manufacturers,</p> <p>17 boat manufacturers, since the late</p> <p>18 1990s?</p> <p>19 A. Yes.</p> <p>20 Q. Was it available to boat</p> <p>21 manufacturers in 1997?</p> <p>22 A. Oh, sure.</p> <p>23 Q. What are those ways of</p> <p>24 testing gel coats and laminates</p>
<p style="text-align: center;">43</p> <p>1 A. Yeah, probably '5 I think.</p> <p>2 Q. So that was before you were</p> <p>3 hired to be an expert on behalf of</p> <p>4 Viking in this lawsuit; is that</p> <p>5 right?</p> <p>6 A. That's correct.</p> <p>7 Q. Do you recall why it was</p> <p>8 that Viking was testing a laminate</p> <p>9 through your laboratory, Sigma</p> <p>10 Laboratories?</p> <p>11 A. No, I wouldn't recall.</p> <p>12 Q. Do boat manufacturers often</p> <p>13 test the materials that they'll be</p> <p>14 using or that they are using in their</p> <p>15 composites?</p> <p>16 A. Very often.</p> <p>17 Q. And why do they do that?</p> <p>18 A. Well, they do it to verify</p> <p>19 the mechanical properties for their</p> <p>20 engineering, a prediction of early</p> <p>21 failures, whether it meets the</p> <p>22 strength and stiffness requirements,</p> <p>23 things of that nature.</p> <p>24 Q. Do they test flexibility as</p>	<p style="text-align: center;">45</p> <p>1 together?</p> <p>2 A. Well, the typical ways that</p> <p>3 builders will take a look at gel</p> <p>4 coats is the weatherability and this</p> <p>5 would be QUV testing, exposure</p> <p>6 testing.</p> <p>7 There would also be what we</p> <p>8 used to call the boil test, but we</p> <p>9 don't actually use boiling water</p> <p>10 anymore. It's about 150 degrees or</p> <p>11 so. And that's mainly for blister</p> <p>12 resistance.</p> <p>13 There are some thin-film</p> <p>14 permeability tests that can be</p> <p>15 performed. But usually when they --</p> <p>16 and there would be first cracking of</p> <p>17 the gel coat and that would normally</p> <p>18 be performed in a flex test.</p> <p>19 Q. And all of those tests were</p> <p>20 available to boat manufacturers in</p> <p>21 the late 1990s?</p> <p>22 A. Yes, sir.</p> <p>23 Q. From 1997 on?</p> <p>24 A. Earlier.</p>



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<p style="text-align: center;">46</p> <p>1 Q. Earlier than 1997?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And how much do they cost</p> <p>4 to do these tests?</p> <p>5 A. A set of tests back then, I</p> <p>6 don't know what they cost now.</p> <p>7 Q. But back then, when you</p> <p>8 were in the business?</p> <p>9 A. Back then it would be</p> <p>10 roughly \$30 a sample. And you do a</p> <p>11 minimum of five and most often you do</p> <p>12 six or seven and that would give you</p> <p>13 one number.</p> <p>14 Q. So these tests could be</p> <p>15 done for several thousands of</p> <p>16 dollars?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And in your experience, as</p> <p>19 a laboratory owner in this field, did</p> <p>20 boat manufacturers engage your lab to</p> <p>21 do these tests on a routine basis?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And are there other labs,</p> <p>24 aside from Sigma Labs --</p>	<p style="text-align: center;">48</p> <p>1 have you done any work for Viking</p> <p>2 Yacht Company?</p> <p>3 A. No, sir.</p> <p>4 Q. And what about Post Marine?</p> <p>5 Have you done work for Post Marine</p> <p>6 prior to this?</p> <p>7 A. No, sir.</p> <p>8 Q. Does this case represent</p> <p>9 your first encounter with Post Marine</p> <p>10 professionally?</p> <p>11 A. On a professional level,</p> <p>12 yes.</p> <p>13 Q. I mean, other than seeing</p> <p>14 their boats in marinas or at boat</p> <p>15 shows.</p> <p>16 A. Yes, sir, that's correct.</p> <p>17 Q. Tell me about the process</p> <p>18 by which you were hired as an expert</p> <p>19 on behalf of the plaintiffs? What do</p> <p>20 you recall about that?</p> <p>21 A. Well, I was hired to come</p> <p>22 up. The first time I went up was for</p> <p>23 Atlantic Mutual.</p> <p>24 Q. Yeah, I'm going to cover</p>
<p style="text-align: center;">47</p> <p>1 Laboratories, that were involved in</p> <p>2 this field?</p> <p>3 A. There was a competitive</p> <p>4 lab, Structural Composites, that did</p> <p>5 some similar testing at the time.</p> <p>6 There's laboratories all over the</p> <p>7 country, Orange County, out in</p> <p>8 California; Broutman in Chicago.</p> <p>9 A number of universities</p> <p>10 will do some testing, but there</p> <p>11 really was only two that I recall</p> <p>12 that specialized in marine</p> <p>13 composites.</p> <p>14 Q. And that was your lab and</p> <p>15 Structural Composites?</p> <p>16 A. That's correct.</p> <p>17 Q. And Structural Composites</p> <p>18 is Dr. Reichard's company?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Now, aside from this</p> <p>21 engagement of Sigma Laboratories, a</p> <p>22 division of D.E. Jones, for testing</p> <p>23 in the late 1990s and your knowing</p> <p>24 the Healeys, prior to this engagement</p>	<p style="text-align: center;">49</p> <p>1 that. I'm actually -- in my mind I</p> <p>2 distinguish that from the work that</p> <p>3 you did --</p> <p>4 A. Okay.</p> <p>5 Q. -- as an expert. But I</p> <p>6 will come up and do that.</p> <p>7 Tell me what the first</p> <p>8 contact was in which you were being</p> <p>9 engaged to provide expert opinion or</p> <p>10 consulting services for the</p> <p>11 plaintiffs in this lawsuit.</p> <p>12 A. I believe the very first</p> <p>13 contact was from Atlantic Mutual</p> <p>14 allowing me to share my records with</p> <p>15 Viking and Post and Michel Weisz.</p> <p>16 Q. Did Atlantic tell you why</p> <p>17 they had agreed to allow you to share</p> <p>18 your records, what had prompted them</p> <p>19 to do that?</p> <p>20 A. No. I don't believe they</p> <p>21 did share that with me.</p> <p>22 Q. Did it surprise you that</p> <p>23 you were being allowed to share these</p> <p>24 records or...</p>



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<p style="text-align: center;">50</p> <p>1 A. No.</p> <p>2 Q. What records did you have</p> <p>3 to share?</p> <p>4 A. Photographic records and</p> <p>5 notes and a report that I wrote.</p> <p>6 Q. A report that you had</p> <p>7 written to Atlantic Mutual?</p> <p>8 A. Yes, sir.</p> <p>9 Q. What was the conclusion of</p> <p>10 that report to Atlantic Mutual?</p> <p>11 A. Essentially I could not</p> <p>12 find any fault of the builder, the</p> <p>13 manufacturer, and that it was my</p> <p>14 opinion that it was a material defect</p> <p>15 on the part of the gel coat.</p> <p>16 Q. And this report, what was</p> <p>17 the date of it?</p> <p>18 A. I don't recall, '04 or '05.</p> <p>19 Q. Do you recall whether this</p> <p>20 report was ever shared by Atlantic</p> <p>21 Mutual with anyone?</p> <p>22 A. No. I wouldn't know that.</p> <p>23 Q. Do you know whether it was</p> <p>24 ever shared with CCP?</p>	<p style="text-align: center;">52</p> <p>1 A. I would have it in my</p> <p>2 office, yes.</p> <p>3 Q. And what was the basis for</p> <p>4 your conclusion in your written</p> <p>5 report to Atlantic Mutual that it was</p> <p>6 a material defect in the gel coat?</p> <p>7 A. Well, I reviewed the</p> <p>8 manufacturing procedures, their QA</p> <p>9 procedures, their quality control</p> <p>10 procedures. I looked at Mr.</p> <p>11 Tortora's boat and the pattern of the</p> <p>12 gel coat cracking phenomenon was not</p> <p>13 coincident with a structural issue.</p> <p>14 It wasn't a laminate issue.</p> <p>15 And it did not appear to be a</p> <p>16 production or a manufacturing issue,</p> <p>17 a fabrication issue.</p> <p>18 It was so random and so</p> <p>19 widespread through a series of</p> <p>20 processes, different fabrication</p> <p>21 processes, that the only common</p> <p>22 denominator really was the gel coat.</p> <p>23 Q. So did you -- well, in</p> <p>24 describing what you considered,</p>
<p style="text-align: center;">51</p> <p>1 A. I don't know that either.</p> <p>2 Q. And you had this report in</p> <p>3 your possession at the time that you</p> <p>4 were contacted by Atlantic Mutual and</p> <p>5 given permission to share your</p> <p>6 records with Viking?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And was this report</p> <p>9 provided to Viking?</p> <p>10 A. I wouldn't know.</p> <p>11 Q. Well, did you share your</p> <p>12 records with --</p> <p>13 A. Did I share? No. Not that</p> <p>14 I know of, not that I could recall.</p> <p>15 Q. I don't understand.</p> <p>16 Atlantic Mutual gave you</p> <p>17 permission to share your records with</p> <p>18 Viking?</p> <p>19 A. They said that I could</p> <p>20 assist in their endeavor.</p> <p>21 Q. Okay. And did you share</p> <p>22 this report with Viking?</p> <p>23 A. I don't recall.</p> <p>24 Q. Do you have this report?</p>	<p style="text-align: center;">53</p> <p>1 you've identified those factors that</p> <p>2 were within Viking's control,</p> <p>3 manufacturing procedures, QA</p> <p>4 procedures, laminate and so forth.</p> <p>5 And from that you've</p> <p>6 concluded that it was the gel coat.</p> <p>7 Were you able to also</p> <p>8 examine -- withdrawn. Let me do it</p> <p>9 this way.</p> <p>10 You've identified a number</p> <p>11 of factors as the basis for your</p> <p>12 opinion in your report to Atlantic</p> <p>13 Mutual that it was the gel coats -- a</p> <p>14 material defect on the part of the</p> <p>15 gel coat that caused the cracking in</p> <p>16 the Tortora boat.</p> <p>17 And you seem to have</p> <p>18 addressed in your review, Viking's</p> <p>19 manufacturing, QA, and construction</p> <p>20 processes.</p> <p>21 What about the care of the</p> <p>22 boat once it was in Mr. Tortora's</p> <p>23 possession? Did you analyze that?</p> <p>24 A. Yes. Yes, I did.</p>



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<p style="text-align: center;">54</p> <p>1 Q. What was the basis for your 2 analysis of that? 3 A. Well, it was -- 4 Q. What did you look at? 5 A. What did I look at? Well, 6 I discussed with Mr. Tortora his care 7 for the boat, also Viking's 8 description of Mr. Tortora, which was 9 he was described as being quite fussy 10 about the appearance of the boat. 11 And the boat had been 12 covered during the winter. When it 13 was uncovered, the phenomenon 14 appeared. 15 I wasn't there so I don't 16 know if it was instantaneous or if it 17 was progressive. But I did section 18 the samples, the representatives 19 samples, from different areas that I 20 took on the boat. 21 And the gel coat failure 22 was only within the gel coat layer 23 and did not extend into the laminate. 24 Q. That's not true for all the</p>	<p style="text-align: center;">56</p> <p>1 A. There was a couple places 2 that I did, yes. 3 Q. But you didn't make a 4 systematic review of the Tortora 5 yacht for gel coat thickness? 6 A. No, sir. It was just 7 mainly in the sample areas. 8 Q. Gel coat thickness can 9 cause gel coat cracking; is that 10 right? 11 A. That's correct. 12 Q. That's a well-known fact, 13 isn't it? 14 A. I believe it is, yeah. 15 Q. And did you review -- with 16 regard to your review of the 17 manufacturing procedures and the 18 quality control or quality assurance 19 procedures at Viking, what did you do 20 to review those procedures? 21 A. Well, I walked through the 22 plant. I saw their incoming raw 23 materials, QC procedures, where they 24 did it. I witnessed calibration of</p>
<p style="text-align: center;">55</p> <p>1 samples. 2 Do you recall that? 3 A. Well, there was one sample 4 that it did go into the skin coat, I 5 believe. 6 Q. With regard to Mr. Tortora, 7 you didn't review any records that he 8 provided to you about how the boat 9 had been cared for, right? You spoke 10 to him? 11 A. Yeah. I spoke to him. 12 Q. And you didn't review any 13 records relating to materials that 14 had been used on the boat by Mr. 15 Tortora or the marina where the boat 16 was stored? 17 A. No, sir. 18 Q. And did you review weather 19 records? 20 A. I only recall that it was a 21 very cold winter. 22 Q. Did you review the 23 thickness of the gel coat on the 24 Tortora yacht?</p>	<p style="text-align: center;">57</p> <p>1 the guns, the spray guns. 2 I verbally went through 3 what their procedures were. I asked 4 them questions and they -- you know, 5 this was something that was just a 6 Q&A with them. 7 Q. Your walk-through of the 8 plant and your review of the 9 calibration of the guns, your 10 witnessing of that and your verbal 11 Q&A, all occurred in 2004, 2005 when 12 you were engaged? 13 A. Yes, sir. 14 Q. It didn't occur at the time 15 that the Tortora yacht was built; is 16 that right? 17 A. No, sir. 18 Q. Am I right? 19 A. That's correct. 20 Q. And at the time that you 21 spoke with Viking, walked through 22 their plant, and reviewed their QC 23 procedures and their materials 24 handling procedures, Viking was</p>



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<p style="text-align: center;">58</p> <p>1 financially interested in the results 2 of your report; isn't that right? 3 Mr. Tortora was requesting 4 that the boat be fixed by Viking? 5 A. Yes, sir. 6 Q. And they were financially 7 interested in the outcome of what you 8 were investigating; isn't that right? 9 A. I know they were 10 interested. What the reasons were 11 I'm not privy to. 12 Q. They stood -- okay. 13 It mattered to Viking that 14 they not be held accountable for the 15 issues in the Tortora yacht? 16 A. Again, I'm not privy to 17 what they were thinking and I 18 wouldn't want to assume anything. 19 Q. Okay. Did Viking provide 20 to you in connection with your review 21 of their manufacturing procedures a 22 comprehensive list of issues related 23 to the manufacturing conditions at 24 the plant during the period when the</p>	<p style="text-align: center;">60</p> <p>1 Were you provided documents 2 reflecting problems or manufacturing 3 condition problems in the Viking 4 plant during the time period when the 5 boat, the Tortora boat, was built as 6 part of your review? 7 A. I don't think I know what 8 you mean by manufacturing problems. 9 Q. When was the Tortora boat 10 built; do you know? 11 A. No. I don't recall off the 12 top of my head. 13 Q. Let's do it this way. 14 MR. BIZAR: Let's mark the 15 report. If you could hand it to me, 16 that would be helpful. 17 BY MR. BIZAR: 18 Q. I don't have a copy of your 19 report to Atlantic Mutual. I will 20 request that, but I don't have it 21 today so I'm somewhat constrained in 22 the questions I can put to you. 23 But I do have a copy of the 24 report that you've issued in this</p>
<p style="text-align: center;">59</p> <p>1 Tortora boat was built? 2 A. I don't -- I'm not sure I 3 know what you mean. 4 Q. Did Viking provide to you 5 full access to all of their 6 documentation of issues, problems, 7 conditions at their facility during 8 the period of time when the Tortora 9 boat was built? 10 A. They provided me anything 11 that I asked for and -- 12 Q. Did you ask for that 13 information? 14 A. I asked if their procedures 15 had changed at all from the time that 16 the boat was built to the time that I 17 was there, and they said that their 18 equipment had remained pretty much 19 the same. Their procedures had 20 pretty much remained the same. 21 Q. I'm asking you a slightly 22 different question. I'm asking you 23 about manufacturing conditions in the 24 plant.</p>	<p style="text-align: center;">61</p> <p>1 case. And so I'm going to ask you to 2 look at it after we have it marked 3 and I'm going to ask you some 4 questions about it. 5 (Exhibit Jones 2 was marked 6 for identification.) 7 BY MR. BIZAR: 8 Q. Mr. Jones, the court 9 reporter has marked as Jones Exhibit 10 2 a copy of a three-page document 11 that is a letter to Michel Weisz 12 dated August 24, 2007. 13 Do you recognize this? 14 A. Yes, sir, I do. 15 Q. And is that the report that 16 you issued in this case? 17 A. Yes, sir. 18 Q. Is that your signature on 19 the third page? 20 A. Yes, sir. 21 Q. Now, the report refers on 22 the second page to the Tortora yacht 23 specifically. 24 Do you see that?</p>



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<p style="text-align: center;">62</p> <p>1 A. Yes.</p> <p>2 Q. Viking VKY55-945 is a hull</p> <p>3 number and that's the hull number</p> <p>4 that corresponds with the Tortora</p> <p>5 yacht; is that right?</p> <p>6 A. That is correct.</p> <p>7 Q. And that yacht has a name.</p> <p>8 The name is Javelin; is that right?</p> <p>9 A. I believe that's correct.</p> <p>10 Q. Okay. And you refer in</p> <p>11 this report, in the second full</p> <p>12 paragraph on the second page, to the</p> <p>13 global nature of the gel coat</p> <p>14 cracking witnessed on the Tortora</p> <p>15 yacht during your visit to New Gretna</p> <p>16 where Viking has a facility.</p> <p>17 Is that right?</p> <p>18 A. That's correct.</p> <p>19 Q. And that was your only</p> <p>20 visit to see the Tortora yacht or did</p> <p>21 you see it on other occasions?</p> <p>22 A. I think that's the only one</p> <p>23 that I recall.</p> <p>24 Q. Did you see any other</p>	<p style="text-align: center;">64</p> <p>1 Number 55-945; is that right?</p> <p>2 A. That's correct.</p> <p>3 Q. You haven't sampled any of</p> <p>4 the other Viking yachts that may be</p> <p>5 the subject of claims in this case?</p> <p>6 A. No, sir.</p> <p>7 Q. Am I right?</p> <p>8 A. That's correct.</p> <p>9 Q. I'm sorry. I have to do</p> <p>10 that to make sure we're on the same</p> <p>11 page.</p> <p>12 Now, have you -- there's no</p> <p>13 reference in the body of your report,</p> <p>14 the three pages, to any Post Marine</p> <p>15 yachts, right?</p> <p>16 A. That's correct.</p> <p>17 Q. Am I right that you have</p> <p>18 not personally inspected any Post</p> <p>19 Marine yachts?</p> <p>20 A. That is also correct.</p> <p>21 Q. And you have not sampled</p> <p>22 any Post Marine yachts?</p> <p>23 A. That is correct.</p> <p>24 Q. Okay. You refer at the</p>
<p style="text-align: center;">63</p> <p>1 Viking yachts that are the subject of</p> <p>2 cracking claims in this litigation?</p> <p>3 A. At the -- no.</p> <p>4 Q. Have you ever, during the</p> <p>5 time since you first started working</p> <p>6 on this matter for Atlantic Mutual to</p> <p>7 the time that you issued this report,</p> <p>8 personally inspected any other Viking</p> <p>9 yachts on which there's been gel coat</p> <p>10 cracking that is the subject of the</p> <p>11 claim in this case?</p> <p>12 A. Just photographs. That's</p> <p>13 it.</p> <p>14 Q. The only yacht that you've</p> <p>15 personally inspected was the Tortora</p> <p>16 yacht, Hull Number 55-945, and you</p> <p>17 did that in 2004, 2005 when you were</p> <p>18 working on behalf of Atlantic Mutual;</p> <p>19 is that right?</p> <p>20 A. That is correct.</p> <p>21 Q. And the only yacht that you</p> <p>22 sampled, the only Viking yacht that</p> <p>23 you sampled, from which you examined</p> <p>24 samples, was the Tortora yacht, Hull</p>	<p style="text-align: center;">65</p> <p>1 bottom of the second page of your</p> <p>2 report to the sampling of the Hull</p> <p>3 Number 55-945, the Tortora yacht; is</p> <p>4 that right?</p> <p>5 A. Yes.</p> <p>6 Q. Let me just ask you a</p> <p>7 question about that, if I may.</p> <p>8 MR. BIZAR: Let's just go</p> <p>9 off the record for a second while I</p> <p>10 look for a particular document.</p> <p>11 THE VIDEOGRAPHER: Going</p> <p>12 off the video record. The time is</p> <p>13 10:04 a.m.</p> <p>14 (There was a pause in the</p> <p>15 proceedings.)</p> <p>16 MR. BIZAR: Let's go back</p> <p>17 on the record.</p> <p>18 THE VIDEOGRAPHER: Back on</p> <p>19 the video record at 10:04 a.m.</p> <p>20 BY MR. BIZAR:</p> <p>21 Q. Mr. Jones, I'm going to</p> <p>22 have the court reporter mark as Jones</p> <p>23 Exhibit 3 a two-page document that</p> <p>24 appears to be an e-mail from Stephen</p>



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<p style="text-align: center;">66</p> <p>1 Murphy to you dated April 7, 2004. 2 (Exhibit Jones 3 was marked 3 for identification.) 4 BY MR. BIZAR: 5 Q. You now have Jones Exhibit 6 3 in front of you. Would you take a 7 moment and look over this two-page 8 document and let me know when you're 9 through. 10 A. (Witness reviews exhibit.) 11 Okay. 12 Q. Exhibit 3 is an e-mail that 13 you received from Mr. Murphy; is that 14 right? 15 A. Yes, sir, it is. 16 Q. And Mr. Murphy was 17 associated with a company called 18 Castle Rock Risk. 19 Do you see that? 20 A. Yes, sir. 21 Q. And what was Castle Rock 22 Risk or what is it? 23 A. They were associated with 24 Atlantic Mutual in some form.</p>	<p style="text-align: center;">68</p> <p>1 MR. BIZAR: Just show 2 laughter on the transcript. 3 BY MR. BIZAR: 4 Q. And Mr. Crivici worked for 5 Castle Rock as well? 6 A. I believe that was the 7 connection. 8 Q. And did he seem also 9 knowledgeable and professional about 10 what you were investigating? 11 A. Yes, sir. 12 Q. Okay. And Mr. Murphy in 13 this e-mail to you was reporting on 14 the sampling from Motor Yacht 15 Javelin, which is Hull Number 55-945, 16 correct? 17 A. Correct. 18 Q. And that's the sampling, in 19 other words, the sampling that's 20 being referred to on April 7, 2004 in 21 this Exhibit 3 to your deposition is 22 the same sampling that you're 23 referring to in your report at the 24 bottom of page 2; is that right?</p>
<p style="text-align: center;">67</p> <p>1 Q. And they were involved in 2 the investigation that you were 3 involved in with regard to the 4 cracking experienced in the Tortora 5 yacht, Hull Number 55-945; is that 6 right? 7 A. That's my understanding. 8 Q. And did you ever meet Mr. 9 Murphy? 10 A. Yes, sir. 11 Q. And what was his experience 12 or background? Do you know? 13 A. I don't recall. 14 Q. Did he seem professional 15 and knowledgeable about what he was 16 doing? 17 A. Oh, yes. 18 Q. And he worked with a fellow 19 name Claudio Crivici? 20 A. Yes. 21 Q. Did I pronounce it 22 correctly? 23 A. Your guess is as good as 24 mine.</p>	<p style="text-align: center;">69</p> <p>1 A. That's correct. 2 Q. There's no other sampling 3 that's been done? 4 A. Not to my knowledge. 5 Q. And the eight samples that 6 are referenced here are the same 7 eight samples from the flybridge and 8 the port topside corner and the aft 9 deck hatch and the foredeck and the 10 transom that are referenced in your 11 report where you refer to the aft 12 deck hatch and the flybridge and the 13 Venturi and the transom, et cetera? 14 A. That's correct. 15 Q. And what did the sampling 16 involve, as you recall it? 17 A. Well, the sampling was 18 basically taking what we call a hull 19 saw. It's a saw blade. It's a 20 circular saw blade and it cuts out 21 what we call a plug. And it might be 22 an inch in diameter, might be two 23 inches in diameter or anywhere in 24 between.</p>



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<p style="text-align: center;">70</p> <p>1 And the idea on this one</p> <p>2 was to just take the sample through</p> <p>3 the affected area into the laminate,</p> <p>4 and I believe we just took the outer</p> <p>5 skin in the case of cord samples. I</p> <p>6 don't recall that we went all the way</p> <p>7 through.</p> <p>8 But on the areas that were</p> <p>9 single skin, such as the Venturi and</p> <p>10 the flybridge combing and things of</p> <p>11 that nature, those are single skin</p> <p>12 and we would have taken the whole</p> <p>13 thing.</p> <p>14 Q. And what did you do with</p> <p>15 the samples once they were taken?</p> <p>16 A. What I did is I sectioned</p> <p>17 them and polished the edges and then</p> <p>18 inspected them under a microscope.</p> <p>19 Q. So when you say optically</p> <p>20 examined them, what you mean by</p> <p>21 that -- those are the terms you use</p> <p>22 in your report -- what you mean by</p> <p>23 that is that you looked at them</p> <p>24 through a microscope?</p>	<p style="text-align: center;">72</p> <p>1 was a little bit off; is that right?</p> <p>2 A. Yeah. Yes, sir, that's</p> <p>3 correct.</p> <p>4 Q. So in each case the crack</p> <p>5 went all the way through the gel coat</p> <p>6 into the skin coat with the exception</p> <p>7 of only two that were in the gel</p> <p>8 coat?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Right?</p> <p>11 A. That is correct.</p> <p>12 Q. And you then say, "When gel</p> <p>13 coat cracks for whatever reason,</p> <p>14 there's an energy that's released at</p> <p>15 failure. This energy can travel into</p> <p>16 the underlying laminate causing</p> <p>17 damage to the laminate."</p> <p>18 A. That's correct.</p> <p>19 Q. Do you see that?</p> <p>20 And then you say, "The six</p> <p>21 samples which displayed damage to the</p> <p>22 underlying skin coat laminate had no</p> <p>23 visible voids, delamination or other</p> <p>24 manufacturing defects that could have</p>
<p style="text-align: center;">71</p> <p>1 A. Correct.</p> <p>2 Q. You eyeballed them, right?</p> <p>3 A. Optically.</p> <p>4 Q. Optically with the help of</p> <p>5 a microscope?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. Now, in your</p> <p>8 description of the samples, just so I</p> <p>9 understand you, you say in each case</p> <p>10 of these eight samples, in each case,</p> <p>11 I'm reading from your report now,</p> <p>12 "The gel coat crack extended through</p> <p>13 the gel coat and into the skin coat</p> <p>14 with the exception of two samples</p> <p>15 which only displayed cracks through</p> <p>16 the gel coat and not into the</p> <p>17 laminate."</p> <p>18 A. Yes, sir.</p> <p>19 Q. Does that refresh your</p> <p>20 recollection --</p> <p>21 A. Yes, sir.</p> <p>22 Q. -- about how the samples --</p> <p>23 A. It does.</p> <p>24 Q. So earlier your testimony</p>	<p style="text-align: center;">73</p> <p>1 caused the failures."</p> <p>2 Do you see that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Now, is it your testimony</p> <p>5 that those are the only kinds of</p> <p>6 manufacturing or use or handling</p> <p>7 conditions that can cause cracking of</p> <p>8 gel coat into the laminate?</p> <p>9 In other words, when you</p> <p>10 say no visible voids, delamination or</p> <p>11 other manufacturing defects, is it</p> <p>12 your testimony that only visible</p> <p>13 voids, delamination or other</p> <p>14 manufacturing defects can cause</p> <p>15 cracking through the gel coat and</p> <p>16 into the laminate?</p> <p>17 A. Well, very often a void, an</p> <p>18 air void, let's take for an example,</p> <p>19 that is a phenomena that occurs in</p> <p>20 polyester boat building --</p> <p>21 Q. Absolutely.</p> <p>22 A. -- quite readily.</p> <p>23 Q. Yep.</p> <p>24 A. And each air bubble is</p>



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<p style="text-align: center;">74</p> <p>1 actually an area for high stress</p> <p>2 concentration.</p> <p>3 Q. Yep.</p> <p>4 A. Under load the stress will</p> <p>5 go to a discontinuity and an air void</p> <p>6 is a discontinuity. So in areas of</p> <p>7 high stress that would be a site for</p> <p>8 possible initial failure.</p> <p>9 In this case, though it</p> <p>10 was -- there was no visible void</p> <p>11 right at the end.</p> <p>12 Now, when I say visible,</p> <p>13 you know, I'm going down to about a</p> <p>14 half a thousandths in diameter. So</p> <p>15 that's actually pretty small. It</p> <p>16 would take an electron microscope to</p> <p>17 get down to the nano size.</p> <p>18 Q. You didn't use an electron</p> <p>19 microscope?</p> <p>20 A. No, I did not. There's</p> <p>21 manufacturing issues and there's</p> <p>22 external issues.</p> <p>23 Q. Right.</p> <p>24 A. So as far as manufacturing</p>	<p style="text-align: center;">76</p> <p>1 Viking told you about their</p> <p>2 manufacturing techniques?</p> <p>3 A. No, no. That was just from</p> <p>4 a visible inspection. Those type of</p> <p>5 stress lines, if I will, are very</p> <p>6 distinctive in their pattern. And --</p> <p>7 Q. You didn't see that in</p> <p>8 these particular samples?</p> <p>9 A. No, no.</p> <p>10 Q. How are they distinctive?</p> <p>11 What would you expect to see that you</p> <p>12 didn't see? Do you recall?</p> <p>13 A. Well, if it was stress --</p> <p>14 no. If it was mechanical stress</p> <p>15 related, say from pulling the part or</p> <p>16 the part being impacted or the part</p> <p>17 going through flexure or being too</p> <p>18 limber, there would be very</p> <p>19 distinctive stress lines that would</p> <p>20 follow.</p> <p>21 In the case of flexibility</p> <p>22 being too flexible, the stress line</p> <p>23 would manifest itself along the edges</p> <p>24 of reinforcement, a frame, a</p>
<p style="text-align: center;">75</p> <p>1 issues, there was nothing that really</p> <p>2 jumped out at me. The thicknesses</p> <p>3 were all appropriate. The</p> <p>4 thicknesses of the gel coat were --</p> <p>5 Q. The thicknesses in the</p> <p>6 samples that you looked at?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay.</p> <p>9 A. They were appropriate. The</p> <p>10 skin coat looked like it had been</p> <p>11 well consolidated. The resin content</p> <p>12 looked appropriate. Everything</p> <p>13 looked, you know, fairly normal,</p> <p>14 fairly consistent with what I would</p> <p>15 expect out of --</p> <p>16 Q. Did you investigate the</p> <p>17 possibility of impact stresses in</p> <p>18 de-molding or other</p> <p>19 manufacturing-type problems?</p> <p>20 A. I considered those,</p> <p>21 certainly.</p> <p>22 Q. And you ruled them out?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And that was based on what</p>	<p style="text-align: center;">77</p> <p>1 bulkhead, something of that nature.</p> <p>2 And they would be fairly linear.</p> <p>3 The stress lines in a</p> <p>4 panel, regardless of if it's a deck</p> <p>5 panel or whatever, a bottom panel, a</p> <p>6 hull side, whatever, those are</p> <p>7 typically framed out with bulkheads</p> <p>8 or stringers or any type of</p> <p>9 stiffener.</p> <p>10 And those are oriented</p> <p>11 either longitudinally, typically</p> <p>12 longitudinally or transversely in the</p> <p>13 boat. And they have the -- they are</p> <p>14 the end -- they provide the end</p> <p>15 conditions for that panel.</p> <p>16 Stress goes to the edge of</p> <p>17 the panels. You don't normally find</p> <p>18 it in the middle of a panel. It</p> <p>19 would be at the edges where it's</p> <p>20 constrained, where there's a hard</p> <p>21 point.</p> <p>22 So those lines, those</p> <p>23 stress lines, would be linear, fairly</p> <p>24 linear, parallel. They would</p>



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<p style="text-align: center;">78</p> <p>1 actually, in essence, outline the 2 structure. 3 In the case of an impact, 4 if it's a backside impact, like a 5 bulkhead trying to push its way 6 through the deck, or some sort of 7 backside impact, it would be a star 8 crack, very distinctive. 9 If it was a frontal impact, 10 somebody dropping a heavy object onto 11 the deck or a strike of some sort, 12 typically those are annular rings. 13 De-molding stress lines 14 would be along feature lines. They 15 would be at the deck to the 16 superstructure, that connection 17 there, or a feature at the hull of 18 the deck line or at the radius in the 19 bottom of the cockpit liner. 20 That's where they would be 21 and they would be very distinctive. 22 They would also be linear, and they 23 would follow that feature, whatever 24 that feature is. That was not the</p>	<p style="text-align: center;">80</p> <p>1 skin coat, it's not a gel coat crack 2 that is simply confined. 3 It's not a crack that is 4 simply confined to the gel coat 5 layer, but it's a crack that extends 6 beneath the gel coat layer; is that 7 right? 8 A. Yes. Most of the cracking 9 that I've ever seen has extended into 10 the underlying laminate for some 11 reason. 12 Q. And in this case that was 13 true for six of your eight samples? 14 A. That's correct. 15 Q. And the underlying laminate 16 is stronger in its constitution than 17 the gel coat layer; isn't that right? 18 A. In the fact that the gel 19 coat is unreinforced, yes. 20 Q. The gel coat is 21 unreinforced and it's applied 22 relatively thinly, correct? 23 A. That's correct. 24 Q. When it's properly applied,</p>
<p style="text-align: center;">79</p> <p>1 case in this boat. 2 Q. When you say in your report 3 that the gel coat crack extended 4 through the gel coat and into the 5 skin coat for six of the samples, 6 that means that the crack was fairly 7 deep, correct? 8 A. A gel coat layer's roughly 9 20 thousandths of an inch and the 10 skin coat might be 30 or 40 11 thousandths. So I guess that's a 12 relative number. 13 Q. What I mean is that the 14 crack goes beneath the gel coat into 15 the layers that are below the gel 16 coat? 17 MR. WEISZ: Object to the 18 form. 19 MR. BIZAR: Let me fix my 20 question. 21 BY MR. BIZAR: 22 Q. When you say in your report 23 that the gel coat crack extended 24 through the gel coat and into the</p>	<p style="text-align: center;">81</p> <p>1 it should be -- well, do you 2 recall -- do you know offhand what 3 the application guidelines are from 4 CCP for its 953 Series gel coat? 5 A. I believe it's 18 to 22 6 thousandths wet. 7 Q. So 18 plus or minus two 8 milliliters; is that right? 9 A. Yeah. 18 to 20. 10 Q. Okay. So as between the 11 gel coat and the underlying layers, 12 the underlying layers are 13 substantially stronger than the gel 14 coat; isn't that right? 15 A. Yes, sir. 16 Q. And the force that can be 17 exerted on the gel coat from the 18 underlying layers can be extreme; 19 isn't that right? 20 A. Yeah. It depends on the 21 load condition but I understand. 22 Q. You agree with my 23 statement? In other words, the 24 underlying layers are working against</p>



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<p style="text-align: center;">82</p> <p>1 an unreinforced, very thin skin, 2 outer coat layer, the gel coat. 3 And when they're heated or 4 cooled, they expand and that — the 5 consequence of that is pressure 6 against the gel coat; isn't that 7 right? 8 MR. WEISZ: Object to the 9 form. 10 THE WITNESS: I don't know 11 if I really follow you. The heating 12 and expanding, what do you mean? 13 BY MR. BIZAR: 14 Q. Well, you understand that 15 materials have something called a 16 coefficient of thermal expansion, 17 right? 18 A. Correct. 19 Q. And there may be a 20 different coefficient of thermal 21 expansion for the laminate than there 22 is for the gel coat? 23 A. Very possibly. 24 Q. And there could be even a</p>	<p style="text-align: center;">84</p> <p>1 most likely an order of magnitude or 2 two than the gel coat. I think your 3 question is whose responsibility is 4 it. 5 Well, I mainly believe that 6 it's the gel coat manufacturer 7 because it would be like me putting 8 paint on steel. 9 You know, paint is a very 10 thin coating. Steel is very rigid, 11 very strong, you know, and it would 12 be very analogous to spraying a thin 13 gel coat onto a heavily reinforced 14 fiberglass part. 15 The order of magnitude of 16 strength and stiffness is going to be 17 very similar. So you are applying a 18 coating onto something that is 19 purposely very rigid. 20 So I really think it's more 21 on the coating manufacturer's due 22 diligence to provide the best 23 material for the application. They 24 know what the application is.</p>
<p style="text-align: center;">83</p> <p>1 disconnect between the coefficient of 2 thermal expansion for the laminate 3 and the gel coat in the sense that 4 the gel coat may not expand enough 5 when the laminate expands for the two 6 to work in harmony? 7 A. Or it could expand greater 8 than. 9 Q. Right. And either way 10 there could be an issue? 11 A. There could be. 12 Q. Whose responsibility is it 13 to determine whether the gel coat 14 works with a particular laminate 15 schedule, the gel coat manufacturer 16 or the boat manufacturer? 17 A. Well, laminate schedules 18 are quite wide in their application. 19 Everybody — every builder has a 20 different thought as to what their 21 laminate schedule ought to be. 22 Q. Correct. 23 A. Now, yes, I would agree 24 that the laminate is much stronger,</p>	<p style="text-align: center;">85</p> <p>1 Q. Okay. Well, let me ask you 2 a different set of questions that are 3 related to what we've just discussed. 4 CCP, as a gel coat 5 manufacturer, makes a gel coat that 6 is intended to be used in a wide 7 variety of marine applications, 8 right? 9 A. They have dozens of 10 formulations, yes. 11 Q. Let's take the 953 is 12 intended to work with a wide variety 13 of laminate schedules, right? 14 A. Correct. 15 Q. And CCP makes a gel coat 16 that it offers for sale and the 17 manufacturer is responsible for 18 building the boat, correct? 19 A. That's correct. 20 Q. And the manufacturer 21 decides whether that gel coat is 22 appropriate for its boat or not, 23 right? 24 A. Very often the builder will</p>



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<p style="text-align: center;">86</p> <p>1 rely on the formulator, the gel coat 2 manufacturer, to give them the best 3 advice. 4 It's my experience that the 5 people who develop the materials, 6 whether it's gel coat or resin or 7 whatever it is, know that product 8 better than anybody else. 9 So, as a builder, you go to 10 your resin supplier, your gel coat 11 supplier, and you say, listen, this 12 is my application. This is what I am 13 intending to do. What's your best 14 idea? This is what I'm looking for. 15 What do you think? 16 And because the gel coat 17 manufacturer, and in this case, CCP, 18 is very well respected in the 19 industry for producing a fine 20 product. 21 They've produced 22 documentation that is used worldwide 23 as a guide on the application and 24 troubleshooting of gel coats.</p>	<p style="text-align: center;">88</p> <p>1 supplier? 2 A. Well, it's ultimately the 3 manufacturer's -- the builder's 4 responsibility to say, yes, I am 5 going to buy that product. 6 But I don't know -- I can't 7 recall of any builder that I've 8 worked with that doesn't consult with 9 either the resin supplier or the gel 10 coat supplier or even the 11 reinforcement supplier. 12 Q. And you've worked with 13 builders who have done testing on 14 their materials as well? 15 A. Oh, certainly. But I don't 16 know of anybody that doesn't call up 17 the manufacturer, have the 18 manufacturer or the supplier come in 19 and say, gee, you know, I'm looking 20 for this color and it's got to be 21 brilliant, it's got to last, you've 22 got to use good pigments, you've got 23 to -- you know, this is a boat. 24 It's going to go out in the</p>
<p style="text-align: center;">87</p> <p>1 So when you go to somebody 2 like this, you would -- it's been my 3 experience to bring the supplier in 4 early. 5 Q. Maybe if they had had you 6 helping them, it would have not 7 worked out the way it did. Let me 8 ask you this question. 9 A. Well, I don't know. 10 Q. Does CCP have control over 11 the manufacturer's laminate schedule 12 or does the manufacturer? 13 A. Oh, the manufacturer does. 14 Q. And does the manufacturer 15 have control over the materials that 16 they use or does CCP? I mean, you 17 mentioned -- 18 A. I'm sorry. What materials? 19 Q. You mentioned advice and 20 consultation and working with 21 somebody. 22 Who decides what materials 23 the manufacturer is going to use, the 24 manufacturer or the material</p>	<p style="text-align: center;">89</p> <p>1 industry. And the marine industry 2 produces thousands of boats per week. 3 Q. You haven't done any 4 testing of CCP's gel coat for 5 purposes of this report, in other 6 words, for purposes of the opinions 7 that you've issued as of August 2007; 8 is that right? 9 A. For this report, no. 10 Q. And you haven't done any 11 testing comparing 953 versus 952 gel 12 coat or any other CCP gel coat 13 formulations for purposes of this 14 report; is that right? 15 A. For the purposes of this 16 report, that's correct. 17 Q. And you haven't analyzed 18 the gel coat formulation of the 953 19 or the 952 gel coats for purposes of 20 this report? 21 A. No, sir. 22 Q. Am I right? 23 A. That's correct. 24 Q. And you haven't analyzed</p>



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<p style="text-align: center;">90</p> <p>1 the gel coat chemistry of CCP's gel 2 coat for purposes of this report? 3 A. No. I'm not a chemist. 4 Q. So your conclusion that 5 it's a material defect in the gel 6 coat basically was arrived at by 7 eliminating other possible causes by 8 a process of elimination; is that 9 right? 10 A. Yes, sir. And historical 11 evidence. 12 Q. And historical evidence is 13 the evidence of Viking's experience 14 with prior series of gel coat, is 15 that it? 16 A. No. It's actually an 17 industry-wide issue, you know, 18 performance. 19 Q. I don't understand what you 20 mean. 21 A. Well, this is -- 22 Q. This is a unique situation; 23 is that what you're saying? 24 A. This is an incredibly</p>	<p style="text-align: center;">92</p> <p>1 You've only seen one boat, 2 which is the Tortora yacht, with this 3 problem personally, correct? In 4 other words, you haven't -- 5 A. For this case? 6 Q. Yes. 7 A. For the Viking/Post versus 8 CCP -- 9 Q. Yes. 10 A. -- there's only one boat 11 that I looked at, yes. 12 Q. And you've never seen a 13 Post boat -- 14 A. That's correct. 15 Q. -- personally? 16 A. Well, for this case. 17 Q. Right. And have you ever 18 been to the Post manufacturing 19 facility for this case? 20 A. No. I witnessed some video 21 application. 22 Q. But you didn't make a 23 personal visit or inspection of the 24 Post --</p>
<p style="text-align: center;">91</p> <p>1 unique situation. I've only seen it 2 one time before. 3 Q. And we'll get to that one 4 time before but let me just make sure 5 I understand you. 6 When you say that this is 7 an incredibly unique situation, you 8 say that -- you're referring to the 9 gel coat cracking of a nature -- of 10 the nature described in your report 11 is a unique situation? 12 A. Well, it's -- yes. It's so 13 global in nature and it encompasses 14 different manufacturing processes 15 from closed mold to open mold to 16 resin transfer, a wide number of 17 laminate schedules. 18 Essentially every part 19 exposed on the outside of the boat 20 had cracks in it, and that was 21 extraordinary. You know, like I say, 22 I've only seen it one other time. 23 Q. Okay. We'll get to the one 24 other time.</p>	<p style="text-align: center;">93</p> <p>1 A. No, I didn't. 2 Q. -- manufacturing facility? 3 A. No, I didn't. 4 Q. And you didn't go to Post 5 and review documents at Post? 6 A. No, sir, I didn't. 7 MR. BIZAR: We need to 8 change the tape so let's do that. 9 THE VIDEOGRAPHER: Going 10 off the video record. The time is 11 10:28 a.m. This is the end of tape 12 one. 13 (A break was taken at this 14 time.) 15 THE VIDEOGRAPHER: Back on 16 the video record at 10:37 a.m. This 17 is the start of tape two. 18 BY MR. BIZAR: 19 Q. So in your testimony a 20 couple moments ago that the situation 21 that you've seen in the Tortora yacht 22 is unique, am I to understand that 23 you haven't seen any such situation 24 in other instances where CCP gel coat</p>



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<p style="text-align: center;">94</p> <p>1 has been involved?</p> <p>2 A. Yes, I have.</p> <p>3 Q. You have seen it in other</p> <p>4 instances?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. What are those other</p> <p>7 instances?</p> <p>8 A. Well, it was just one.</p> <p>9 Q. Okay.</p> <p>10 A. And it was --</p> <p>11 Q. So the one other time</p> <p>12 before was a CCP gel coat?</p> <p>13 A. Yes, sir, it was.</p> <p>14 Q. Okay. Tell me about that.</p> <p>15 A. Well, this was something</p> <p>16 that I caused. It was something that</p> <p>17 I actually did intentionally but it</p> <p>18 wasn't -- I didn't anticipate the</p> <p>19 phenomena. And this was a case where</p> <p>20 I had built a boat and then post</p> <p>21 cured it in an oven.</p> <p>22 And when it came out of the</p> <p>23 oven, the gel coat was globally</p> <p>24 cracked and the phenomena looked very</p>	<p style="text-align: center;">96</p> <p>1 it.</p> <p>2 A. No, no. It's just</p> <p>3 something that I had seen before.</p> <p>4 Q. In the field have you seen</p> <p>5 an instance of this gel coat cracking</p> <p>6 comparable to what you saw in the</p> <p>7 Tortora boat before?</p> <p>8 A. No.</p> <p>9 Q. When was this work that you</p> <p>10 did with the boat that you post cured</p> <p>11 in an oven?</p> <p>12 A. 2002.</p> <p>13 Q. Did you contact CCP as the</p> <p>14 gel coat manufacturer about that</p> <p>15 situation?</p> <p>16 A. No. I knew why it</p> <p>17 happened.</p> <p>18 Q. And why did it happen?</p> <p>19 A. Different coefficients of</p> <p>20 thermal expansion.</p> <p>21 Q. As between the gel coat and</p> <p>22 the laminate?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And did the cracking in</p>
<p style="text-align: center;">95</p> <p>1 similar to what I saw with the</p> <p>2 Tortora boat. It was so extensive</p> <p>3 and so extraordinary.</p> <p>4 Q. What was the gel coat in</p> <p>5 question that was used in that</p> <p>6 instance?</p> <p>7 A. It was the Armorflex gel</p> <p>8 coat and I don't remember the exact</p> <p>9 batch or product code number.</p> <p>10 Q. Was it 953, 952?</p> <p>11 A. Yeah. I think it was the</p> <p>12 953.</p> <p>13 Q. Do you know one way or the</p> <p>14 other?</p> <p>15 A. I could look it up in my</p> <p>16 records, but, as I sit here today,</p> <p>17 no, I don't recall.</p> <p>18 Q. Is that the basis for your</p> <p>19 opinion in this report? That</p> <p>20 information is not disclosed in your</p> <p>21 report and it's not disclosed in your</p> <p>22 documents so I want to know if that's</p> <p>23 the basis for your opinion in any way</p> <p>24 because I'm going to move to strike</p>	<p style="text-align: center;">97</p> <p>1 that case occur immediately?</p> <p>2 A. Oh, yes.</p> <p>3 Q. It didn't take four or five</p> <p>4 years to develop?</p> <p>5 A. No.</p> <p>6 Q. And is it your</p> <p>7 understanding that with regard to the</p> <p>8 Tortora boat, the cracking took</p> <p>9 several years to develop?</p> <p>10 A. That's my understanding.</p> <p>11 Q. The Tortora boat was built</p> <p>12 in 1999?</p> <p>13 A. It was a 2000 year model.</p> <p>14 Q. 2000 year model?</p> <p>15 A. But it was started near the</p> <p>16 end of '99.</p> <p>17 Q. And the cracking was</p> <p>18 pointed out in 2004; is that right?</p> <p>19 A. I believe so. I believe</p> <p>20 that was the date.</p> <p>21 Q. In your situation that you</p> <p>22 described in your plant, the cracking</p> <p>23 resulting from different coefficients</p> <p>24 of thermal expansion occurred</p>



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<p style="text-align: center;">98</p> <p>1 immediately as opposed to the Tortora 2 situation where cracking of the gel 3 coat occurred a number of years 4 later? 5 A. Yes. Some of it did happen 6 immediately, but some of it was 7 progressive. 8 Q. But some of it at least 9 happened immediately? 10 A. Yes, sir. 11 Q. Did you issue a report or 12 do anything in connection with 13 that -- 14 A. No. 15 Q. -- boat? 16 A. No, sir. 17 Q. Did you repair the boat? 18 A. Yes, sir. 19 Q. How did you do that? 20 A. I stripped the gel coat off 21 and repainted it. 22 Q. And what did you repaint it 23 with? 24 A. It was an allgrip U.S.</p>	<p style="text-align: center;">100</p> <p>1 A. Yes, I do. 2 Q. And you were provided in 3 this case some CCP documents 4 referring to cracking situations, 5 right? 6 A. Yes. Yes, I was. 7 Q. MasterCraft, Skier's Choice 8 are some such situations. 9 A. I remember those. 10 Q. And those cracking 11 instances have nothing to do with 12 your opinion here? 13 A. No. 14 Q. Isn't that right? 15 A. That's correct. 16 Q. In other words, those 17 situations are not this same unique 18 situation that you've described? 19 A. Not at all. 20 Q. Those are normal instances 21 of cracking that can be identified as 22 caused by something specific? 23 A. Yes, sir. 24 Q. Okay. Now, the opinion</p>
<p style="text-align: center;">99</p> <p>1 Paints product. It was an LPU that 2 we used. 3 Q. You didn't reapply gel 4 coat? 5 A. No, sir. 6 Q. Now, you understand that 7 CCP from time to time gets reports of 8 gel coat cracking by various 9 customers, right? 10 A. I would have to assume 11 that. 12 Q. You would assume that 13 because all manufacturers get gel 14 coat cracking reports; isn't that 15 right? 16 A. I would assume that, too. 17 I'm not a gel coat manufacturer, so 18 I'm not privy. 19 Q. But you know that gel coat 20 cracking is a common phenomenon in 21 the marine industry? 22 A. Very common. 23 Q. And, in fact, you say that 24 in your report.</p>	<p style="text-align: center;">101</p> <p>1 that you've reached in this case is 2 based, as you put it, on your 3 examination of the Tortora boat and 4 historical knowledge, right? 5 A. That's correct. 6 Q. And you've extrapolated 7 from your examination of the Tortora 8 boat to other Viking boats and to all 9 the Post boats; isn't that right? 10 A. That's correct. 11 Q. You haven't done any work 12 on these other boats yourself? 13 A. No. 14 Q. It's purely by 15 extrapolation? 16 A. That's correct. 17 Q. Okay. Now, with regard to 18 the Tortora boat, are you certain 19 that Viking provided you with all the 20 information relevant to that boat? 21 A. I wouldn't know. 22 Q. Okay. Let me mark a 23 document. Let me do it this way. 24 In your report you identify</p>



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<p style="text-align: center;">102</p> <p>1 on a reference list the materials 2 that you consulted in connection with 3 your work. 4 A. That's correct. 5 Q. And there are no Post 6 Marine documents listed. 7 A. That's right. 8 Q. So you didn't consult any 9 Post Marine documents; is that right? 10 A. I didn't have any, no. 11 Q. And there are only very few 12 Viking documents. 13 A. That's correct. 14 Q. Is that because you didn't 15 have any of those documents either? 16 A. Those were the ones that I 17 referred to specifically. I would 18 have to say that I read a raft, a 19 couple of banker boxes full of 20 documents. 21 Q. These are the ones you -- 22 A. But those are the ones that 23 were specific to what I was 24 investigating, yes.</p>	<p style="text-align: center;">104</p> <p>1 Q. And the training of the 2 people who do the application of the 3 gel coat is something that's 4 important as well? 5 A. Yes, sir. 6 Q. And ensuring that the 7 people who do the gel coat 8 application properly is important 9 also, correct? 10 A. Yes, sir. 11 Q. And the manufacturer has 12 control over the gel coat 13 application, not CCP as a gel coat 14 materials supplier? 15 A. That's correct. 16 Q. In other words, it's done 17 in the boat building facility, not in 18 CCP's factories, right? 19 A. Yes, sir. 20 MR. BIZAR: We'll mark this 21 as Jones 4 I think. 22 (Exhibit Jones 4 was marked 23 for identification.) 24 BY MR. BIZAR:</p>
<p style="text-align: center;">103</p> <p>1 Q. Did you ignore documents 2 that were maybe contradictory to your 3 position? 4 A. No. No. 5 MR. BIZAR: Let me mark 6 this document. 7 BY MR. BIZAR: 8 Q. So why is it that gel coat 9 thickness can cause gel coat 10 cracking? 11 A. If it's too thick, it's a 12 brittle, unreinforced layer, fairly 13 thin, not very strong. 14 Q. And why then does it crack? 15 A. Well, if it's thick, it's 16 even more brittle than a thin layer. 17 And being a thicker, unreinforced 18 layer, it is more prone to cracking. 19 Q. So the application of gel 20 coat in accordance with the gel coat 21 manufacturer's specifications is 22 something that's important. 23 Would you agree? 24 A. Oh, certainly.</p>	<p style="text-align: center;">105</p> <p>1 Q. I'm going to hand to you a 2 document that was marked at one of 3 the Viking depositions and it is a 4 multiple-page document that has some 5 boat dimensions on it. 6 The boat referenced is 7 55-945 and it has a variety of 8 measurements of gel coat thickness, 9 which I will represent to you have 10 been testified about by Viking 11 witnesses. 12 Take a moment, look it 13 over. 14 A. (Witness reviews exhibit.) 15 Q. Let me ask you, you didn't 16 review any deposition testimony of 17 any of the Viking witnesses; is that 18 right? 19 A. No, I don't believe I have. 20 Q. And you didn't -- you've 21 never seen Exhibit 4 before today -- 22 A. No. 23 Q. -- is that right? 24 A. That's correct.</p>



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<p style="text-align: center;">106</p> <p>1 Q. And if I represent to you 2 that these numbers shown on Exhibit 4 3 are measurements of gel coat 4 thickness on the Tortora boat, at 5 various parts of the Tortora boat, 6 does that seem to comport with what 7 the document says? 8 You can look through the 9 document. 10 A. Yeah. I don't know how 11 they took the measurements but, yeah, 12 this would be... 13 Q. Let me do it this way. 14 55-945 is the Tortora boat, 15 right? 16 A. Yes, sir. 17 Q. Okay. And in the 18 lower-right corner there's something 19 that says VK. That means it comes 20 from the Viking files. 21 And you see Viking listed 22 on a number of these pages, right? 23 A. Yes, sir. 24 Q. And you understand that</p>	<p style="text-align: center;">108</p> <p>1 referring to. 2 Q. So that's the forward deck? 3 A. And, yes, that's the 4 forward deck. 5 Q. And that's page 3602? 6 A. 3602, correct. 7 Q. See, you're so experienced 8 you know exactly where to look for 9 the page number. 10 And then page 3603 is the 11 deckhouse? 12 A. This would be the 13 deckhouse, correct. 14 Q. Okay. And you see written 15 on a number of these pages, including 16 the page we're on, 3603, "55-945 TC 17 thickness," right? 18 A. Okay. 19 Q. Do you see that? 20 A. TC thickness. 21 Q. On the right side in 22 handwriting? 23 A. Yes, I do see that. 24 Q. And then you see on the</p>
<p style="text-align: center;">107</p> <p>1 this is an outline of the Tortora 2 boat? 3 A. This looks like an outline 4 of the hard top, yes. 5 Q. Right. And then the second 6 page is an outline of the port 7 passage, open flybridge? 8 A. Yes, sir. 9 Q. And the third page, do you 10 see what that is an outline of or can 11 you tell me what that would be an 12 outline of? 13 A. That looks like the back of 14 the superstructure. 15 Q. Okay. And the fourth page, 16 what would that be an outline of, the 17 forward deck? 18 A. That would be the 19 deckhouse, not the deck itself. 20 Q. And then the next page, 21 page 3603, what would that be an 22 outline of? 23 A. Wait a minute. I'm sorry. 24 I missed the page that you were</p>	<p style="text-align: center;">109</p> <p>1 prior page the words "TC thickness"? 2 A. Yes. 3 Q. Right? And then the page 4 before that says "thickness," right? 5 A. Yes. 6 Q. So can you understand this 7 document as referring to gel coat 8 thickness? 9 A. If the numbers relate to 10 gel coat thickness, I can understand 11 the documents. 12 Q. And the measurements here 13 are in many respects, not all 14 respects but in many respects 15 substantially higher than 18 plus or 16 minus two milliliters. Would you 17 agree? 18 A. Yes. Not uncommon. 19 Q. Whether common or uncommon, 20 the measurements on this boat, the 21 Tortora yacht, which experienced 22 global cracking, are in many respects 23 substantially higher than 18 plus or 24 minus two milliliters?</p>



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<p style="text-align: center;">110</p> <p>1 A. Yes. In some respects, 2 yes. 3 Q. I mean, if you look at page 4 3601 on the right column, are you 5 with me? 6 A. Yes. 7 Q. 35, 34, 40, 33, 42, 62, 80. 8 Do you see those 9 measurements? 10 A. Yes. 11 Q. And on the opposite side 12 you have 36, 38, 26. 13 Do you see those 14 measurements? 15 A. Yes, I do. 16 Q. And then on the next page, 17 some of the places are 34, 26, 34, 18 28. 19 Do you see that? 20 A. Yes. 21 Q. And on the page after that 22 you have measurements all over the 23 map from 17 all the way up to 42. 24 Do you see that?</p>	<p style="text-align: center;">112</p> <p>1 application he would use the gauge to 2 determine where they were and... 3 Q. That was something that you 4 saw personally? 5 A. Yes, sir. 6 Q. But you didn't see it at 7 the time that the Tortora yacht was 8 made because you're not a time 9 traveler, isn't that right? 10 A. That's correct. 11 Q. And you didn't see it at 12 the time the other yachts that are at 13 issue in this case were made because 14 you didn't go back in time to see 15 those yachts when they were built? 16 A. No. I haven't developed 17 that technique yet. 18 Q. Okay. Something that only 19 happens on TV apparently. 20 Now, let me — and you 21 didn't see any yacht building 22 techniques at Post, did you? 23 A. No, I didn't. 24 Q. Now, during the course of</p>
<p style="text-align: center;">111</p> <p>1 A. Yes, I do. 2 Q. So these — assuming that 3 these are gel coat thickness 4 measurements on the Tortora yacht, 5 these measurements are substantially 6 thicker than the manufacturer's 7 specifications, yes or no? 8 A. A portion of them are, yes. 9 Q. Okay. And in your 10 investigation of manufacturing 11 processes at Viking, what attention 12 did you pay to gel coat thickness in 13 the application of gel coat, 953 14 Series gel coat, to Viking yachts 15 other than the Tortora yacht? 16 A. Well, in the application it 17 was pretty much a standard procedure 18 for the gel coat operator or one of 19 his helpers to have a gel coat 20 thickness gauge. 21 Q. A wet gauge, a mil gauge? 22 A. A mil gauge called a wet 23 film thickness gauge or gel gauge. 24 And, you know, at points during their</p>	<p style="text-align: center;">113</p> <p>1 your investigation into this problem, 2 did you have a chance to look at a 3 variety of CCP documents? 4 A. Oh, yes. 5 Q. And CCP reports on 6 inspections and CCP reports on tests? 7 A. Yes. 8 Q. Did you at any time in your 9 review of those documents think that 10 the CCP people writing those 11 documents were anything other than 12 honest and truthful in their 13 depiction of what they had seen or 14 done? 15 A. Are we talking about their 16 in-house test documents and QA 17 documents — 18 Q. Yes. 19 A. — and formulation 20 documents — 21 Q. Yes. 22 A. — and things of that 23 nature? Yes. 24 Q. You thought they were</p>



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<p style="text-align: center;">114</p> <p>1 honest and truthful in the reporting 2 of those results? 3 MR. WEISZ: Object to the 4 form. 5 THE WITNESS: I would 6 assume so. I hate to assume but... 7 BY MR. BIZAR: 8 Q. Let me give you the 9 question a different way and try and 10 cure my problem that Mr. Weisz has 11 objected to. 12 Have you any information to 13 suggest to you that the CCP personnel 14 recording test results were anything 15 other than honest and truthful in 16 their recording of those results 17 based on the documents you reviewed? 18 A. Well, based on the 19 documents and based on my experience 20 with CCP and certain personnel from 21 CCP, I have always respected them as 22 being professional and upright and 23 honest. 24 Q. Thank you. And with regard</p>	<p style="text-align: center;">116</p> <p>1 (Exhibit Jones 5 was marked 2 for identification.) 3 BY MR. BIZAR: 4 Q. I've placed in front of you 5 a -- 6 A. Can I say something with 7 respect to this document here? 8 Q. The Tortora boat document? 9 A. Yeah. 10 Q. Meaning Exhibit 4? 11 A. Correct, Exhibit 4. 12 Q. Is it in response to one of 13 my questions? Are you amending an 14 answer? 15 A. No. I'm not amending an 16 answer. 17 Q. Okay. The way -- 18 A. It's just an observation 19 that I had. 20 Q. The way -- no. The answer 21 is you can't. 22 A. Okay. 23 Q. You don't get to just 24 speak. You have to answer the</p>
<p style="text-align: center;">115</p> <p>1 to CCP inspection reports on boats 2 that they inspected that you may have 3 seen in the course of your 4 investigation in this matter, did you 5 ever see any inspection reports, any 6 root cause analyses prepared by CCP 7 that were anything other than honest 8 and truthful? 9 MR. WEISZ: Object to the 10 form. 11 THE WITNESS: They appeared 12 so. 13 BY MR. BIZAR: 14 Q. You have no reason to 15 believe that they weren't being 16 truthful? 17 A. They all seemed to be 18 one-sided but I would -- I believe 19 they reported what they saw and what 20 they believed. 21 Q. Thank you. 22 MR. BIZAR: Let's mark as 23 the next Jones document which is 24 Exhibit 5.</p>	<p style="text-align: center;">117</p> <p>1 questions. 2 A. Okay. 3 Q. With regard to -- I showed 4 you the Tortora boat thickness 5 measurements in Exhibit 4. Let me 6 show you Exhibit 5, which I'll 7 represent to you is a three-page 8 document produced from CCP in this 9 case. Take a moment and look it 10 over. 11 A. (Witness reviews exhibit.) 12 Okay. 13 Q. Have you seen this Exhibit 14 5 before? 15 A. I may have. 16 Q. It's not a document that's 17 listed on your list of documents 18 reviewed or relied on? 19 A. Yeah. 20 Q. This refers to a boat 21 manufactured by Post using, among 22 other things, 953 Series gel coat. 23 Do you agree? 24 A. Yes, sir.</p>



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<p style="text-align: center;">118</p> <p>1 Q. And that's reflected on the</p> <p>2 part inspection form on the second</p> <p>3 page, right?</p> <p>4 A. That's correct.</p> <p>5 Q. And there's a reference to</p> <p>6 the summary of what the CCP technical</p> <p>7 service representative found on this</p> <p>8 boat, is there not?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And the reference refers to</p> <p>11 the gel coat being 70 to 75</p> <p>12 milliliters thick, correct?</p> <p>13 A. Mils is not milliliters but</p> <p>14 it's —</p> <p>15 Q. I'm sorry. Millimeters?</p> <p>16 A. Millimeters</p> <p>17 MR. WEISZ: No. It's not</p> <p>18 millimeters either.</p> <p>19 THE WITNESS: No, no, no.</p> <p>20 It's — pardon me? I'm sorry. It's</p> <p>21 actually a term for thousandths of an</p> <p>22 inch.</p> <p>23 BY MR. BIZAR:</p> <p>24 Q. Okay. Let me correct it.</p>	<p style="text-align: center;">120</p> <p>1 for identification.)</p> <p>2 BY MR. BIZAR:</p> <p>3 Q. Jones Exhibit 6 is a</p> <p>4 two-page document from Viking files</p> <p>5 that's a series of e-mails dated on</p> <p>6 or around May 20, 2005 with regard to</p> <p>7 a boat that's being examined.</p> <p>8 And the boat has a hard top</p> <p>9 that was made with CCP's 953WK227</p> <p>10 Snow White gel coat.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. It's at the bottom.</p> <p>14 A. Yes.</p> <p>15 Q. The e-mail exchange is</p> <p>16 between Mr. Kasinski, Mr. Beltran and</p> <p>17 Bill Heller, right?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And Mr. Kasinski asks Mr.</p> <p>20 Heller whether the cracking was due</p> <p>21 to the CCP gel coat or was it applied</p> <p>22 too heavy.</p> <p>23 Do you see that?</p> <p>24 A. I see that.</p>
<p style="text-align: center;">119</p> <p>1 A. 75 thousandths of an inch.</p> <p>2 Q. It refers to the gel coat</p> <p>3 being 70 to 75 thousandths of an inch</p> <p>4 thick?</p> <p>5 A. Yes, sir, it does.</p> <p>6 Q. And that's substantially</p> <p>7 thicker than 18 plus or minus two</p> <p>8 mils. Would you agree?</p> <p>9 A. I would agree.</p> <p>10 Q. And you never inspected</p> <p>11 visually, yourself, or optically</p> <p>12 examined, to use your terminology,</p> <p>13 any Post Marine boat at issue in this</p> <p>14 case?</p> <p>15 A. No, I never have.</p> <p>16 Q. And you have no reason to</p> <p>17 believe that this inspection report</p> <p>18 is false or flawed in any way?</p> <p>19 A. I have no reason to believe</p> <p>20 that.</p> <p>21 Q. Let me show you some other</p> <p>22 documents, if I may.</p> <p>23 MR. BIZAR: This is 6.</p> <p>24 (Exhibit Jones 6 was marked</p>	<p style="text-align: center;">121</p> <p>1 Q. And the answer from Mr.</p> <p>2 Heller to Mr. Kasinski was, "John,</p> <p>3 yes, there was an excessive amount of</p> <p>4 gel coat film thickness in certain</p> <p>5 areas."</p> <p>6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. And, as we discussed,</p> <p>9 thickness can cause gel coat</p> <p>10 cracking?</p> <p>11 A. Yes, it can.</p> <p>12 Q. And this is a boat that you</p> <p>13 haven't examined before?</p> <p>14 A. That is also correct.</p> <p>15 Q. And you've not seen this</p> <p>16 document before; is that also</p> <p>17 correct?</p> <p>18 A. Not to my recollection.</p> <p>19 Q. Okay.</p> <p>20 MR. BIZAR: Let's mark this</p> <p>21 one and the next one, the two pages.</p> <p>22 (Exhibit Jones 7 was marked</p> <p>23 for identification.)</p> <p>24 BY MR. BIZAR:</p>



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<p style="text-align: center;">122</p> <p>1 Q. Mr. Jones, I've handed you</p> <p>2 Exhibit 7, which is a two-page</p> <p>3 document with Viking Bates Numbers</p> <p>4 dated as of January 19, 2000. Take a</p> <p>5 moment and look that over.</p> <p>6 A. (Witness reviews exhibit.)</p> <p>7 Okay.</p> <p>8 Q. Have you seen this document</p> <p>9 before?</p> <p>10 A. Not to my recollection.</p> <p>11 Q. And you know who Juan</p> <p>12 Beltran is at Viking?</p> <p>13 A. No.</p> <p>14 Q. He writes in this document,</p> <p>15 "Please be advised," all in capitals,</p> <p>16 and again the text of the document is</p> <p>17 in capitals, "We have a problem with</p> <p>18 the thickness of gel coat in our</p> <p>19 fiberglass parts and I spoke with you</p> <p>20 guys before.</p> <p>21 "It looks like nothing is</p> <p>22 being done. This time you're going</p> <p>23 to sign this note, signature."</p> <p>24 Do you see that?</p>	<p style="text-align: center;">124</p> <p>1 THE WITNESS: That's what</p> <p>2 it appears.</p> <p>3 BY MR. BIZAR:</p> <p>4 Q. And, again, this is a</p> <p>5 document that you don't recall seeing</p> <p>6 in connection with your</p> <p>7 investigation?</p> <p>8 A. That's correct.</p> <p>9 Q. Let's move on from</p> <p>10 thickness to another topic related to</p> <p>11 manufacturing, if we may.</p> <p>12 Would you agree with me</p> <p>13 that moisture is a factor in the</p> <p>14 manufacture of fiberglass parts that</p> <p>15 could affect the performance of those</p> <p>16 parts in the field?</p> <p>17 A. Yes, it can.</p> <p>18 (Exhibit Jones 8 was marked</p> <p>19 for identification.)</p> <p>20 BY MR. BIZAR:</p> <p>21 Q. Let me hand to you what</p> <p>22 we've had the court reporter mark as</p> <p>23 Exhibit 8 to your deposition. It's a</p> <p>24 one-page Viking document. Take a</p>
<p style="text-align: center;">123</p> <p>1 A. Yes, I do.</p> <p>2 Q. And there's a signature by</p> <p>3 a Mr. James Parker and then there's a</p> <p>4 signature as well on the second page,</p> <p>5 which is identical, by Ramon</p> <p>6 Quinones.</p> <p>7 Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And, again, thickness can</p> <p>10 cause gel coat cracking?</p> <p>11 A. Yes, it can.</p> <p>12 Q. And this document is dated</p> <p>13 as of 2000, the year 2000?</p> <p>14 A. That's correct.</p> <p>15 Q. And it refers back to a</p> <p>16 conversation that Mr. Beltran may</p> <p>17 have had with these individuals prior</p> <p>18 to that time?</p> <p>19 MR. WEISZ: Object to the</p> <p>20 form.</p> <p>21 BY MR. BIZAR:</p> <p>22 Q. Does it not?</p> <p>23 MR. WEISZ: I still object</p> <p>24 to the form.</p>	<p style="text-align: center;">125</p> <p>1 moment and look it over.</p> <p>2 A. (Witness reviews document.)</p> <p>3 Okay.</p> <p>4 Q. This is a memorandum, an</p> <p>5 e-mail memorandum, by Juan Beltran to</p> <p>6 Stan Blair with carbon copies to</p> <p>7 others. It refers in handwriting in</p> <p>8 the upper right corner to a licking</p> <p>9 problem. I think he means leaking</p> <p>10 problem.</p> <p>11 Would you agree with that,</p> <p>12 based on the text of the memo?</p> <p>13 A. Yes. I see where it says</p> <p>14 leaking.</p> <p>15 Q. It says, "Subject: Water</p> <p>16 Leak" and then it refers in the text</p> <p>17 to leaking, correct?</p> <p>18 A. That's correct.</p> <p>19 Q. The text is "The roof over</p> <p>20 the 48 hull mode" --</p> <p>21 THE VIDEOGRAPHER: We're</p> <p>22 going off the video record. The time</p> <p>23 is 11:05.</p> <p>24 (There was a pause in the</p>



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<p style="text-align: center;">126</p> <p>1 proceedings because of a technical 2 difficulty.) 3 THE VIDEOGRAPHER: Back on 4 the video record. The time is 5 11:11 a.m. 6 BY MR. BIZAR: 7 Q. The text of Exhibit 8 of 8 the e-mail message itself refers 9 to -- is as follows: "The roof over 10 the 48 hull mode is leaking bad. I 11 have spots in the skin coat from the 12 water that we had to grind out on 13 48431. 14 "This could cause problems 15 later. We have made a lot of work 16 orders and I send o e-mail to Frank 17 Moser on 8-16-03 about this 18 situation. Could you please look 19 into this situation? 20 "We also have a lot of 21 other leaks over other hull molds 22 with 5 gallon pails. We made work 23 orders and e-mail for the 56 hull 24 mode and 45 hull mode have the same</p>	<p style="text-align: center;">128</p> <p>1 exhibit, Exhibit 9, is "Leaks on the 2 roof in Viglass," which means 3 fiberglass? 4 A. I -- 5 Q. You don't know? 6 A. That I don't know. 7 Q. Okay. It's another e-mail 8 message from Juan Beltran to various 9 people complaining about leaks in 10 their manufacturing area; is that 11 right? 12 A. Yes. This does say, "licks 13 on the ruff" -- ruff. 14 Q. Mr. Beltran's native 15 language is not English, but you get 16 the sense of it? 17 A. I get the gist of the 18 message. 19 Q. And they're talking about 20 dripping water on top of lamination 21 damaging the body and it needs to be 22 fixed. 23 Do you see that? 24 A. Yes, I see that.</p>
<p style="text-align: center;">127</p> <p>1 problems. 2 "Could you please look into 3 the situation, please. Thank you, 4 Juan Beltran." 5 Do you see that? 6 A. Yes, sir. 7 Q. And that's a document that 8 you didn't see in connection with 9 your investigation -- 10 A. No. 11 Q. -- into manufacturing at 12 Viking, correct? 13 A. That's correct. 14 MR. BIZAR: Let's mark the 15 next exhibit. 16 (Exhibit Jones 9 was marked 17 for identification.) 18 BY MR. BIZAR: 19 Q. Jones Exhibit 9 is a 20 one-page document from Viking's 21 files. Take a moment and look that 22 through. 23 A. (Witness reviews exhibit.) 24 Q. The subject of this</p>	<p style="text-align: center;">129</p> <p>1 Q. And you don't know if 2 problems like the problem described 3 in Exhibit 9 or Exhibit 8 existed in 4 prior years? 5 A. No. I don't know if it was 6 prior or during the construction of 7 any of the boats. 8 Q. Or subsequent? 9 A. Or subsequent. No, I 10 don't. 11 Q. You didn't see this 12 document as part of your 13 investigation? 14 A. No. 15 MR. BIZAR: Let's go to the 16 next one. 17 (Exhibit Jones 10 was 18 marked for identification.) 19 BY MR. BIZAR: 20 Q. Jones Exhibit 10 is a 21 four-page document from Viking's 22 files as well dated March 23, 2005. 23 The subject is the "Roof Leaking 24 Water" and there are pictures</p>



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<p style="text-align: center;">130</p> <p>1 attached to the e-mail message 2 pointing out the places on the roof. 3 They're not the clearest 4 pictures but pointing out the places 5 on the roof presumably where there 6 are leaks. 7 A. Yes, I see that. 8 Q. And it states, "Frank, the 9 roof on top of the 52 hull mold is 10 leaking water really bad. We have 11 work orders made. You fixed this 12 before and it's still leaking water. 13 "We need this to be done 14 again and properly so we don't have 15 to deal with warranty issues later 16 on. 17 "I hope this could be done 18 as soon as possible. I'm sending you 19 pictures of the leak and what's being 20 damage. If you have any questions, 21 let me know. This is very hot. It 22 needs to be done right away. 23 Thanks." 24 Do you see that?</p>	<p style="text-align: center;">132</p> <p>1 conditions at the Viking plant and 2 referring to specifically plastic in 3 the egg crate area and issues with 4 the dust collectors because -- and 5 I'm reading, I'm quoting it now, 6 "Because we have a big problem with 7 the dust when we patch in gel coating 8 and allgrip, this machines blow air 9 and dust all over the place and 10 contaminate all areas." 11 Did I read that excerpt 12 correctly? 13 A. Yes, you did. 14 Q. And this is a document that 15 you didn't see as part of your 16 investigation; is that right? 17 A. No, I did not. 18 Q. And you don't know what 19 period of time this problem existed 20 or whether it existed during the 21 period when the boats in question 22 were being manufactured; is that 23 right? 24 A. I'm not sure it's during</p>
<p style="text-align: center;">131</p> <p>1 A. Yes, I see that. 2 Q. Again, you don't know if 3 that -- if such problems had existed 4 in the period 1997 to 2004? 5 A. No, I have no idea. 6 Q. And you didn't see this 7 document as part of your 8 investigation? 9 A. That's correct. 10 MR. BIZAR: Let's mark this 11 one. 12 (Exhibit Jones 11 was 13 marked for identification.) 14 BY MR. BIZAR: 15 Q. Exhibit 11 is a two-page 16 document that is from Viking's files. 17 The first page is handwritten, but 18 the second page, which may be easier 19 on your eyes, is the typewritten 20 version. 21 A. (Witness reviews exhibit.) 22 Q. It's another message from 23 Juan Beltran to a variety of people 24 relating to the manufacturing</p>	<p style="text-align: center;">133</p> <p>1 their manufacturing, but it may be 2 between their Post finishing, in the 3 finished area. 4 Q. But there's not -- 5 A. But I don't -- you know. 6 Q. I'm not asking you to 7 speculate. My question is simply you 8 don't know what period of time this 9 problem existed or whether it existed 10 during the period in time when the 11 boats in question were being 12 manufactured? 13 A. No, I do not. 14 Q. Okay. And you didn't 15 consider this document as part of 16 your investigation? 17 A. No, I did not. 18 (Exhibit Jones 12 was 19 marked for identification.) 20 BY MR. BIZAR: 21 Q. I had the court reporter 22 mark another two-page document. 23 Again, this is from Viking's files 24 and it's partly handwritten and then</p>



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<p style="text-align: center;">134</p> <p>1 the text is on the second -- is on 2 the first page. This has been marked 3 as Exhibit 12. 4 Have you seen this document 5 before today? 6 A. No, sir. 7 Q. This document refers to a 8 heater. "The only heater that works 9 in the hull area is the north side 10 between the 6148 mold. The other two 11 do not work. Could you please look 12 into this matter." 13 Do you see that? 14 A. Yes, sir. 15 Q. Temperature conditions in 16 the manufacturing plant are 17 significant in the manufacturing of 18 fiberglass, would you agree with 19 that? 20 A. They can be. 21 Q. And they can, if not 22 appropriate, produce problems that 23 appear later on? 24 A. Usually they appear right</p>	<p style="text-align: center;">136</p> <p>1 it was about 65 degrees. 2 "Now I'm skinning the hull 3 and it's about 55 degrees in the hull 4 area. We are going to have problems 5 later with things not curing right. 6 I'm just following up. I talked to 7 your secretary already with this 8 e-mail." 9 Do you see that? 10 A. Yes. 11 Q. This is a document -- well, 12 again, temperature issues are issues 13 that can affect gel coat performance? 14 A. Yes, they can. 15 Q. And this is a document that 16 you didn't consider in connection 17 with your investigation into 18 manufacturing practices at Viking? 19 A. That's also correct. 20 Q. And you haven't seen it, in 21 fact, prior to today; is that right? 22 A. That is also correct. 23 Q. And you haven't seen, well, 24 any documents related to</p>
<p style="text-align: center;">135</p> <p>1 away but yes. 2 Q. And this is a document that 3 you didn't see prior to today? You 4 said that a moment ago. 5 A. That's correct. 6 Q. And you didn't consider it 7 as part of your investigation into 8 the manufacturing practices at 9 Viking? 10 A. That's also correct. 11 (Exhibit Jones 13 was 12 marked for identification.) 13 BY MR. BIZAR: 14 Q. Defendant's Exhibit 13 is a 15 three-page document, again, on the 16 subject of the heater dated December 17 9, 2002. 18 It states in the text part 19 to Dan Passarelli from Juan Beltran 20 and James Parker, "Could you send 21 someone to check the heater in the 22 hull area in Viglass. 23 "None of them are working. 24 We gelled the 61580 this morning and</p>	<p style="text-align: center;">137</p> <p>1 manufacturing conditions at Post; 2 isn't that right? 3 A. That's correct. 4 Q. Do any of these documents 5 in any way affect your opinion about 6 the quality of the manufacturing 7 practices at Viking? 8 A. Well, no, it doesn't change 9 any at all. It sounds like they're 10 well educated in what can and cannot 11 affect the performance of the 12 materials. 13 And they're aware of the 14 situation and they're, you know, 15 attempting to remedy it as best that 16 they can. 17 Water leaks and cold 18 temperature and high temperatures are 19 very common. 20 Q. And gel coat thickness is 21 common as well? 22 A. Oh, sure. They can range 23 all over the place. 24 Q. And so confronted with</p>



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<p style="text-align: center;">138</p> <p>1 these documents, you still think that 2 the manufacturing practices at the 3 Viking plant were totally fine and 4 are not in any way to be faulted in 5 connection with the gel coat cracking 6 issue; is that right? 7 A. I would say that the 8 construction processes and QA and QC 9 of what exists in the Viking plant 10 and what I believe to have existed 11 over the period of time that I've 12 been familiar with them is probably 13 an order of magnitude better than the 14 standard in the industry. 15 So I would say, yes, it has 16 not affected my opinion at all. 17 Q. And you have the same 18 opinion with regard to Post? 19 A. Yes, sir. 20 Q. And your basis for the 21 opinion with regard to Post is just 22 your knowledge of their general 23 reputation in the industry? 24 A. No. I've had</p>	<p style="text-align: center;">140</p> <p>1 even know if I kept them, to be 2 honest with you. 3 MR. BIZAR: Just for good 4 form sake, can you hand me the 5 Subpoena? 6 (Exhibit Jones 14 was 7 marked for identification.) 8 BY MR. BIZAR: 9 Q. Exhibit 14 is a copy of a 10 Subpoena to you. 11 Have you seen this before? 12 A. I'm sorry. What's the date 13 on this? 14 Q. August 28, 2007. 15 A. Yeah. I must have seen it, 16 yes. 17 Q. And attached to the cover 18 page is a series of document requests 19 that begin under the page captioned 20 Document Requests? 21 A. Yes. 22 Q. And did you produce all the 23 documents that you had in your 24 possession in response to these</p>
<p style="text-align: center;">139</p> <p>1 communications with the people at 2 Post and I've interviewed the head of 3 the glass shop and the people who 4 have actually done the spraying. 5 And, you know, here's a 6 company that has people that have 7 been employed by that company for 17 8 years or 23 years and well educated 9 in their process. 10 And they seem to know what 11 the responsibilities are and what the 12 proper procedures are. 13 Q. The people that you 14 interviewed at Post, can you identify 15 them by name? 16 A. I don't recall their names, 17 no. 18 Q. Did you take notes during 19 those interviews? 20 A. Yeah. 21 Q. Were the notes produced to 22 me? 23 A. I don't know if they were 24 or not. I don't -- you know, I don't</p>	<p style="text-align: center;">141</p> <p>1 requests? 2 A. Yes, sir. 3 Q. Now, turning our attention 4 back to your report, if we can, you 5 have not identified any documents 6 from a company or any information 7 from a company called Performance 8 Cruising. 9 Is that right? 10 A. I don't recall them, no. 11 Q. Are you familiar with a 12 company called Performance Cruising? 13 A. No. 14 Q. Have you seen the report of 15 the defendants' expert, Dr. Strong, 16 in this case? 17 A. Oh, yes. Yes. 18 Q. Did you read that report? 19 A. Yes, I did. 20 Q. Did you see reference to 21 Performance Cruising in that report 22 or don't you recall? 23 A. Yes. I believe there was a 24 reference.</p>



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<p style="text-align: center;">142</p> <p>1 Q. Are you familiar with</p> <p>2 Performance Cruising from your work</p> <p>3 in the marine industry?</p> <p>4 A. No, sir.</p> <p>5 Q. If I represented to you</p> <p>6 that Performance Cruising was a</p> <p>7 manufacturer of catamarans and</p> <p>8 trimarans in Annapolis, Maryland,</p> <p>9 would that be news to you?</p> <p>10 A. It sure would.</p> <p>11 Q. And if I represented to you</p> <p>12 that Performance Cruising used not</p> <p>13 merely the same formulation of gel</p> <p>14 coat as Post Marine but the same gel</p> <p>15 coat from the same batches, the same</p> <p>16 manufacturer's batches, would that</p> <p>17 also be news to you?</p> <p>18 A. Yes.</p> <p>19 Q. And if I represented to you</p> <p>20 that Performance Cruising had not had</p> <p>21 experience, cracking experience, with</p> <p>22 those batches of gel coat that Post</p> <p>23 Marine had had, would that be news to</p> <p>24 you?</p>	<p style="text-align: center;">144</p> <p>1 Affidavit of Tony Smith in this case</p> <p>2 that attests to all those facts,</p> <p>3 right?</p> <p>4 A. Not that I can recall.</p> <p>5 Q. And you haven't seen the</p> <p>6 deposition testimony of Tony Smith or</p> <p>7 the exhibits to that deposition</p> <p>8 either?</p> <p>9 A. That's also correct.</p> <p>10 Q. And does that in any way</p> <p>11 change your opinion that the gel coat</p> <p>12 is materially defective?</p> <p>13 A. No.</p> <p>14 Q. Why not?</p> <p>15 A. Just from what I've</p> <p>16 witnessed in the boat, in Mr. --</p> <p>17 Q. Tortora?</p> <p>18 A. -- in Mr. Tortora's boat</p> <p>19 and what has been related to me by</p> <p>20 both Viking and Post as the wide</p> <p>21 number of boats that are very similar</p> <p>22 in cracking phenomena and the fact</p> <p>23 that the cracks do not have any rhyme</p> <p>24 or reason to them as far as being</p>
<p style="text-align: center;">143</p> <p>1 A. Yes.</p> <p>2 Q. And if I represented to you</p> <p>3 that Performance Cruising, the boats</p> <p>4 on which Performance Cruising had</p> <p>5 used its -- withdrawn.</p> <p>6 If I represented to you</p> <p>7 that Performance Cruising had used</p> <p>8 the CCP 953 Series gel coat that</p> <p>9 comes from the same batches as Post</p> <p>10 Marine's 953 Series gel coat on boats</p> <p>11 that were used in extreme cold</p> <p>12 temperature climates, would that be</p> <p>13 news to you?</p> <p>14 A. Sure.</p> <p>15 Q. And if I represented to you</p> <p>16 that using the same batches of gel</p> <p>17 coat, the same formula of gel coat,</p> <p>18 on boats used in cold weather climate</p> <p>19 Performance Cruising had not had a</p> <p>20 cracking experience like Post Marine,</p> <p>21 that would be news to you as well; is</p> <p>22 that right?</p> <p>23 A. That's correct.</p> <p>24 Q. And you've never seen the</p>	<p style="text-align: center;">145</p> <p>1 coincident with stress lines or hard</p> <p>2 spots or anything of that nature.</p> <p>3 They're so global and so</p> <p>4 random and it's almost bizarre, you</p> <p>5 know, how global it is. I've never</p> <p>6 seen that, except in the one</p> <p>7 instance.</p> <p>8 And the fact that this</p> <p>9 Performance -- you say that</p> <p>10 Performance catamaran has been using</p> <p>11 the same batch or did use the same</p> <p>12 batch and their boats went to cold</p> <p>13 climates, I know nothing about how</p> <p>14 long they were there, whether -- the</p> <p>15 duration, you know, how many times,</p> <p>16 what the cycle of temperature was.</p> <p>17 I know nothing about it.</p> <p>18 So I couldn't respond to that. I</p> <p>19 wouldn't know.</p> <p>20 Q. So you can't respond</p> <p>21 because you don't have enough</p> <p>22 information?</p> <p>23 A. I don't have enough</p> <p>24 information. And even if everything</p>



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<p style="text-align: center;">146</p> <p>1 that you have told me, if it were all 2 true, it still wouldn't change my 3 opinion. What I saw is what I saw 4 and – 5 Q. What you saw in the one 6 boat, the Tortora boat? 7 A. Yeah. And what has been 8 represented to me by people that I 9 trust and have confidence in, that 10 the other boats are, I'll say in 11 quotes, all the same. You know, no, 12 it doesn't change my opinion at all. 13 Q. So just to be clear, you 14 haven't considered any of the 15 information that's been available in 16 the record in this case with regard 17 to the experience of Performance 18 Cruising using 953 Series gel coat 19 made by CCP, correct? 20 A. That is correct. 21 Q. And you haven't – and the 22 fact that they used the same gel coat 23 formula, same batches, in cold 24 weather climates is immaterial to</p>	<p style="text-align: center;">148</p> <p>1 A. I believe that it's related 2 to environmental exposure. 3 Q. So use conditions, 4 conditions in the field, the way the 5 boats are handled affects gel coat 6 cracking? 7 MR. WEISZ: Object to the 8 form. 9 BY MR. BIZAR: 10 Q. Is that right? 11 MR. BIZAR: I'm sorry. Is 12 your objection that it's compound? 13 MR. WEISZ: No. It's 14 objecting that it assumes facts not 15 in evidence. 16 MR. BIZAR: Okay. 17 THE WITNESS: I'm sorry. 18 Could you – 19 BY MR. BIZAR: 20 Q. Sure. 21 A. – repeat it? 22 Q. Are use conditions, meaning 23 conditions in the field and the way 24 boats are handled, do those</p>
<p style="text-align: center;">147</p> <p>1 your opinion? 2 A. Well, I would just have to 3 look at the record on the Viking and 4 Post boats. Not every boat they used 5 953 cracked. 6 Q. Well, we'll get to that in 7 a second. I'm just focused right now 8 on the Performance Cruising. 9 A. It correlates. It 10 doesn't – you know, doesn't change 11 my opinion at all. 12 Q. So the fact that the 13 Performance Cruising boats made from 14 the same batches as Post Marine boats 15 doesn't crack in your view is akin to 16 the fact that or equivalent to the 17 fact that some Post and some Viking 18 boats have not cracked; is that 19 right? 20 A. Yes, sir. 21 Q. And why is it that in your 22 view if the gel coat is materially 23 defective, why is it that some Post 24 and Viking boats have not cracked?</p>	<p style="text-align: center;">149</p> <p>1 conditions affect gel coat cracking? 2 A. Certainly. 3 Q. And do environmental 4 conditions, temperature, thermal 5 qualities, thermal conditions, do 6 those affect gel coat cracking? 7 A. Yes, sir, they do. 8 Q. And when you say that the 9 experience of Performance Cruising 10 not having cracks with boats made 11 with the same batches as Post and the 12 experience of Post and Viking in not 13 having cracks in some of their boats 14 in your view are equivalent, is that 15 because they may have equivalent use 16 conditions in the field or equivalent 17 environmental conditions? 18 A. Possibly. That could be a 19 reason, sure. 20 Q. Do you have any other 21 explanation for the fact that the 22 boats have not all cracked if the gel 23 coat is materially defective? 24 A. I believe it's – I believe</p>



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<p style="text-align: center;">150</p> <p>1 it's exposure.</p> <p>2 Q. And you haven't made any</p> <p>3 systematic study of the ways in which</p> <p>4 boats were exposed, boats in</p> <p>5 question, boats made at Post and</p> <p>6 Viking with 953 Series gel coat were</p> <p>7 exposed to the temperature or the</p> <p>8 environment or how they were used in</p> <p>9 the field, right?</p> <p>10 A. It's been my understanding</p> <p>11 that the major portion of the boats</p> <p>12 that were affected have been cold</p> <p>13 climate boats.</p> <p>14 Q. I understand that that's</p> <p>15 your testimony, but my question is</p> <p>16 you haven't done a systematic study</p> <p>17 on all the boats on which 953 Series</p> <p>18 gel coat has been applied?</p> <p>19 A. I apologize. No. I have</p> <p>20 not made a systematic study of that.</p> <p>21 Q. You haven't interviewed the</p> <p>22 owners; you haven't gone to the</p> <p>23 marinas and looked at the boats; you</p> <p>24 haven't looked at any records</p>	<p style="text-align: center;">152</p> <p>1 referred to throughout the composites</p> <p>2 industry."</p> <p>3 That's on the second page</p> <p>4 of your report in the first full</p> <p>5 paragraph.</p> <p>6 That's CCP, right?</p> <p>7 A. That's correct.</p> <p>8 Q. And CCP is well regarded</p> <p>9 and a company that you respect.</p> <p>10 You testified to that</p> <p>11 earlier?</p> <p>12 A. Yes, I did.</p> <p>13 Q. And that's -- their general</p> <p>14 reputation for fine manufacturing and</p> <p>15 fine quality products is known in the</p> <p>16 marine industry; is that right?</p> <p>17 A. That's their general</p> <p>18 reputation, correct.</p> <p>19 Q. And you're familiar with</p> <p>20 other gel coat manufacturers, right?</p> <p>21 A. Certainly.</p> <p>22 Q. You're familiar with HK?</p> <p>23 A. HK.</p> <p>24 Q. And Interplastics?</p>
<p style="text-align: center;">151</p> <p>1 relating to how those boats have been</p> <p>2 maintained; is that right?</p> <p>3 A. That is correct.</p> <p>4 Q. And, in fact, your</p> <p>5 understanding that the boats were</p> <p>6 exposed to cold weather climates</p> <p>7 comes from Viking and Post personnel</p> <p>8 telling you that; is that right?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And that's a fact that</p> <p>11 you've taken at face value, right,</p> <p>12 or --</p> <p>13 A. Sure.</p> <p>14 Q. -- as an assumption in your</p> <p>15 analysis?</p> <p>16 A. Sure.</p> <p>17 Q. Now, just to get this off</p> <p>18 the table, in your report you say,</p> <p>19 "The gel coat manufacturer of the</p> <p>20 product used in the Viking and Post</p> <p>21 vessels has always promoted their</p> <p>22 products as the best products of this</p> <p>23 type available and their expertise</p> <p>24 and knowledge is well respected and</p>	<p style="text-align: center;">153</p> <p>1 A. Yes.</p> <p>2 Q. And have you done any</p> <p>3 evaluation of their gel coats for</p> <p>4 purposes of your report in this case?</p> <p>5 A. No.</p> <p>6 Q. Have you looked at any</p> <p>7 documents that they -- that we</p> <p>8 obtained from HK or Ashland or any</p> <p>9 other third party as part of your</p> <p>10 analysis in this case?</p> <p>11 A. I remember an Ashland</p> <p>12 document. I remember an HK document.</p> <p>13 MR. BIZAR: Let's look at</p> <p>14 the HK documents first.</p> <p>15 (Exhibit Jones 15 was</p> <p>16 marked for identification.)</p> <p>17 BY MR. BIZAR:</p> <p>18 Q. I've had the court reporter</p> <p>19 mark some documents that were</p> <p>20 obtained from Ashland in response to</p> <p>21 a Subpoena in this case.</p> <p>22 And I believe that these</p> <p>23 documents are among the documents</p> <p>24 that you referenced in your report as</p>



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<p style="text-align: center;">154</p> <p>1 having been reviewed by you.</p> <p>2 A. Yes, sir.</p> <p>3 Q. So you recall seeing these</p> <p>4 documents as part of your work in</p> <p>5 this case?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Do you know what these</p> <p>8 documents show?</p> <p>9 A. They show the results of</p> <p>10 exposure testing.</p> <p>11 Q. Carried out by HK?</p> <p>12 A. I believe so.</p> <p>13 Q. And what was the exposure</p> <p>14 testing testing of? Do you know?</p> <p>15 A. Gel-coated panels.</p> <p>16 Q. Do you know anything about</p> <p>17 the composition of those gel-coated</p> <p>18 panels, how they were made?</p> <p>19 A. No, I don't.</p> <p>20 Q. Do these tests mean</p> <p>21 anything to you?</p> <p>22 A. Without studying them and</p> <p>23 drawing graphs and looking at them,</p> <p>24 the numbers are just the numbers.</p>	<p style="text-align: center;">156</p> <p>1 A. Yes. I believe they have</p> <p>2 two different types that they use or</p> <p>3 a number of different types that they</p> <p>4 use.</p> <p>5 Q. And do you know what, if</p> <p>6 anything, Ashland supplies to Post?</p> <p>7 A. No, I don't recall.</p> <p>8 Q. Is it your understanding</p> <p>9 that Ashland has an interest in not</p> <p>10 being held responsible -- well, let</p> <p>11 me do it this way. Withdrawn.</p> <p>12 Would it be fair to presume</p> <p>13 that Ashland has an interest in not</p> <p>14 being held responsible for the gel</p> <p>15 coat cracking at issue with regard to</p> <p>16 the Viking and/or Post boats?</p> <p>17 MR. WEISZ: Object to the</p> <p>18 form.</p> <p>19 THE WITNESS: I think it</p> <p>20 would be fair to presume they don't</p> <p>21 want to get any on them.</p> <p>22 BY MR. BIZAR:</p> <p>23 Q. It's not a stretch of the</p> <p>24 imagination --</p>
<p style="text-align: center;">155</p> <p>1 Q. And did you rely on these</p> <p>2 test results in any way in reaching</p> <p>3 your opinion?</p> <p>4 A. No.</p> <p>5 Q. Okay. That's all I need to</p> <p>6 know.</p> <p>7 So this document, although</p> <p>8 it's disclosed in your report, has</p> <p>9 nothing to do with your conclusions;</p> <p>10 is that right?</p> <p>11 A. That's correct.</p> <p>12 Q. Let's look at the Ashland</p> <p>13 documents next.</p> <p>14 Ashland is a company that</p> <p>15 supplies materials to the plaintiffs;</p> <p>16 is that right?</p> <p>17 A. I believe so.</p> <p>18 Q. Do you know what Ashland</p> <p>19 supplies to Viking for purposes of</p> <p>20 the boats at issue in this case?</p> <p>21 A. I believe they are the sole</p> <p>22 supplier of the resin that's used.</p> <p>23 Q. The back-up resin, the</p> <p>24 laminating resin?</p>	<p style="text-align: center;">157</p> <p>1 A. Yeah.</p> <p>2 Q. -- to assume that, right?</p> <p>3 A. Yeah, yeah.</p> <p>4 MR. BIZAR: Okay. Let's</p> <p>5 mark this as 16.</p> <p>6 (Exhibit Jones 16 was</p> <p>7 marked for identification.)</p> <p>8 BY MR. BIZAR:</p> <p>9 Q. The court reporter has</p> <p>10 marked as Exhibit 16 to your</p> <p>11 deposition, Mr. Jones, a collection</p> <p>12 of documents that were obtained</p> <p>13 pursuant to a Subpoena from Ashland.</p> <p>14 And these documents, are</p> <p>15 they documents that you've seen</p> <p>16 before?</p> <p>17 A. Yes.</p> <p>18 Q. And they were documents</p> <p>19 that you actually saw in connection</p> <p>20 with your work in this case; is that</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. And did you rely on these</p> <p>24 documents in any way in connection</p>



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<p style="text-align: center;">158</p> <p>1 with your work?</p> <p>2 A. I'd really have to read</p> <p>3 them again to know.</p> <p>4 Q. As you sit here today, do</p> <p>5 you know whether you -- do you recall</p> <p>6 whether you relied on them in any</p> <p>7 way?</p> <p>8 A. I think I used it as</p> <p>9 another data point in what I was</p> <p>10 looking at and I didn't see anything</p> <p>11 that was -- struck me as being --</p> <p>12 Q. Conclusive?</p> <p>13 A. Yes.</p> <p>14 Q. There was nothing</p> <p>15 conclusive in these documents; is</p> <p>16 that right?</p> <p>17 A. Right.</p> <p>18 Q. Do you know -- I'm sorry.</p> <p>19 A. Yeah. Nothing that struck</p> <p>20 me as, you know, nailing it right</p> <p>21 down.</p> <p>22 Q. You understand these</p> <p>23 documents as reflecting the results</p> <p>24 of various tests that were carried</p>	<p style="text-align: center;">160</p> <p>1 Q. And do you know whether the</p> <p>2 white gel coat in question was CCP's</p> <p>3 white gel coat?</p> <p>4 A. Not without reading the</p> <p>5 documents again.</p> <p>6 Q. Do you recall whether it</p> <p>7 was?</p> <p>8 A. No, I don't recall.</p> <p>9 Q. If you just would -- and</p> <p>10 just to be clear, you said a moment</p> <p>11 ago that nothing stood out in these</p> <p>12 documents to you. It was just</p> <p>13 another data point.</p> <p>14 Did you rely on them in any</p> <p>15 way for your opinion in the case?</p> <p>16 A. Just that it kind of</p> <p>17 confirmed my opinion that it wasn't</p> <p>18 the base laminate. There wasn't</p> <p>19 something out of whack with the</p> <p>20 resin. And that was the data point.</p> <p>21 Q. I'll just direct your</p> <p>22 attention to the page that has the</p> <p>23 Bates number ASH 17, which has the</p> <p>24 Jones Bates Number 720. The Jones</p>
<p style="text-align: center;">159</p> <p>1 out by Ashland --</p> <p>2 A. That's right.</p> <p>3 Q. -- on materials?</p> <p>4 A. That's right.</p> <p>5 Q. And do you understand</p> <p>6 whether these tests included -- do</p> <p>7 you know what materials were being</p> <p>8 tested?</p> <p>9 A. Well, it was pretty much</p> <p>10 the base resin.</p> <p>11 They were looking at</p> <p>12 different resins that Viking and I</p> <p>13 guess -- I think this is just geared</p> <p>14 toward the Viking Company, the</p> <p>15 different resins that they were using</p> <p>16 and whether or not they were</p> <p>17 adequately cured and whether or not</p> <p>18 they were an issue in the gel coat</p> <p>19 cracking, whether they could be</p> <p>20 pointed out as being an issue.</p> <p>21 Q. Do you understand that they</p> <p>22 looked at both core resins and the</p> <p>23 white gel coat as well?</p> <p>24 A. Yes.</p>	<p style="text-align: center;">161</p> <p>1 one is the one at the very bottom.</p> <p>2 Tell me when you're there.</p> <p>3 A. I'm here.</p> <p>4 Q. Look through that page and</p> <p>5 focus on the summary, if you would.</p> <p>6 A. Uh-huh.</p> <p>7 Q. Do you see that underlining</p> <p>8 of the first sentence?</p> <p>9 A. Yes.</p> <p>10 Q. Is that your handwriting?</p> <p>11 A. I don't think so.</p> <p>12 Q. Okay. It says there, "DMA</p> <p>13 results show undercure in the gel</p> <p>14 coat material as seen by an increase</p> <p>15 in Tg for the 2nd scan results."</p> <p>16 Do you see that?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Tell me what that means in</p> <p>19 English.</p> <p>20 A. Well, what that means is</p> <p>21 that the DMA test essentially</p> <p>22 heats -- adds heat to the laminate or</p> <p>23 to the material that they're</p> <p>24 measuring or analyzing and it</p>



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<p style="text-align: center;">162</p> <p>1 measures the glass transition 2 temperature, the Tg. 3 And they run it through 4 again a second time to get a 5 percentage cure, and this is — they 6 actually measure the heat going in 7 and the heat coming out. And if 8 there's residual heat, then that 9 means that there's an undercure 10 situation. 11 Q. What does that mean, an 12 undercure situation? 13 A. That means that there has 14 not been complete cross-linking 15 between the constituents of that 16 layer. 17 Q. And what causes that? 18 A. Anything. 19 Q. Does that tell you anything 20 about the quality of the gel coat? 21 A. Well, it could be the 22 quality of the gel coat. It could 23 be — 24 Q. The test?</p>	<p style="text-align: center;">164</p> <p>1 district manager for Ashland and he's 2 writing to another Ashland person. 3 At the bottom of the page 4 he writes, "Jim, I'm not certain. I 5 would guess that these are caused by 6 uncured gel coat seeping into the 7 laminate but question, question?" 8 Do you see that? 9 A. Yeah. Usually uncured gel 10 coat seeping into the laminate, 11 that's more of a visual thing. You 12 can actually see that. 13 Q. If you look to the next 14 page in the document, 741, you can 15 see that they're referring to 16 pictures and reports from cut-outs 17 that Viking had asked for analysis 18 on. You can see that at the bottom 19 of the page. 20 A. Okay. 21 Q. And then immediately above 22 that e-mail they refer to electron 23 scanning micrographs from Ashland 24 Analytical and they say, "I am not</p>
<p style="text-align: center;">163</p> <p>1 A. It could be the tech. It 2 could be anything. You know, the 3 percentage of catalyst that went in 4 on that particular day, the guy 5 didn't hold his tongue to the left 6 when he pulled the trigger. It could 7 be any number of things. 8 Q. So the result means nothing 9 one way or the other? 10 A. It doesn't surprise me. 11 I've seen this before. 12 Q. It doesn't show that the 13 gel coat material is defective, does 14 it? 15 A. Somebody could look at that 16 and say, well, you know, let's look a 17 little further. You know, it's a 18 data point that says that, well, 19 yeah, we did find something, you 20 know, in a routine investigation. 21 And this is fairly routine. 22 Q. And how — let me just 23 direct your attention to the page 24 740, DEJ 740. Mr. Keenan is a</p>	<p style="text-align: center;">165</p> <p>1 sure we learned anything as to the 2 root cause." Right? 3 A. Right. 4 Q. Do you see that? 5 And then above that they 6 talk about potentially running a 7 coefficient for linear thermal 8 expansion to look for a root cause 9 and then on the next page there's the 10 comment from Bob Keenan. 11 Are any of these analyses 12 in any way analyses that you relied 13 on or considered as part of your 14 opinion in this case? 15 A. Well, I've relied on them 16 that this is — I believe that these 17 tests were valid. 18 If you look at the acreage 19 that a boat builder produces, the 20 acreage of gel coat surface that a 21 builder produces in any given period 22 of time, to find a few spots here and 23 there would not surprise me at all. 24 It would not be uncommon.</p>



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<p style="text-align: center;">166</p> <p>1 Q. What do you mean by that, 2 to find a few spots? You mean a few 3 spots where the building was not up 4 to snuff? 5 A. Oh, you have a guy that is 6 spraying gel coat, let's just take 7 that application for a moment. 8 Q. Fine. 9 A. And he's got areas -- let's 10 say we're gel coating this table. 11 Well, it's very easy to gel coat a 12 nice flat plane. But then when you 13 gel coat in here -- 14 Q. It's more complicated? 15 A. -- it's much more 16 complicated. And you wind up with 17 thick areas and thin areas and it's 18 just an artifact of the construction 19 process. 20 Most of the stuff, whether 21 it's too thick or it's too thin, will 22 show up before the boat gets out the 23 door. 24 Q. Is that true when the gel</p>	<p style="text-align: center;">168</p> <p>1 A. They may be in the 2 manufacturer's control, yes. 3 Q. And you don't view these as 4 in any way conclusive one way or the 5 other? 6 A. It's like hearing that 7 knock in your engine and going around 8 and trying to figure out what it is. 9 Yep, there's a knock and it's not 10 this, it's not this, it's not this. 11 So that leaves a few other 12 doors open. It's that type of thing 13 It's not conclusive. It doesn't go 14 to the root cause. It just 15 eliminates a couple areas. 16 Q. Do any of these tests 17 eliminate the gel coat? 18 A. No. 19 Q. Did you -- and, again, you 20 looked at this but you reached your 21 opinion independent of this 22 information, meaning you looked at 23 Exhibit 16? 24 A. I considered it.</p>
<p style="text-align: center;">167</p> <p>1 coat is not cured properly as well? 2 A. Yes, sir. Yes, sir. Very 3 often that will be discovered in the 4 finishing department or after they 5 put a black stripe on it or something 6 of that nature. It sits out in 7 commissioning for a little while. 8 A lot of that will come up. 9 And while the boat's at the factory, 10 they can attend to those and those 11 are considered fairly routine. 12 Not a big surprise there. 13 None of this is really a surprise. 14 Well, except for the global nature 15 but the -- to have spots here and 16 there is -- no, it's not a big 17 surprise. 18 Q. So you understand these 19 test results as reported by Ashland 20 in these e-mail exchanges which we've 21 looked at very briefly as referring 22 to issues where there may have been 23 undercuring or things within the 24 manufacturer's control?</p>	<p style="text-align: center;">169</p> <p>1 Q. But your opinion is your 2 opinion? It's not based on this 3 testing? 4 A. No. 5 Q. Is that right? 6 A. That's correct. 7 MR. BIZAR: Let's take a 8 five-minute break. 9 THE VIDEOGRAPHER: Going 10 off the video record. The time is 11 11:49 a.m. 12 (A break was taken at this 13 time.) 14 THE VIDEOGRAPHER: We are 15 back on the video record. The time 16 is 12:35 p.m. This is the start of 17 tape three. 18 BY MR. BIZAR: 19 Q. Good afternoon, Mr. Jones. 20 A. Good afternoon. 21 Q. We were talking this 22 morning, in part, about the work that 23 you did on behalf of Atlantic Mutual 24 with regard to the Tortora yacht in</p>



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<p style="text-align: center;">170</p> <p>1 an earlier period prior to your 2 engagement in this case. 3 Do you recall that? 4 A. Yes. 5 Q. Just to be clear, you were 6 hired by Atlantic Mutual for that 7 matter; is that right? 8 A. That's correct. 9 Q. And Atlantic Mutual was the 10 insurer for whom? 11 A. Mr. Tortora. 12 Q. And how did Atlantic Mutual 13 find you; do you know? 14 A. I've worked with them 15 before. 16 Q. And had you worked with 17 them prior to that -- to being hired 18 for that project? 19 A. Yes, sir. 20 Q. And have you worked with 21 them since that project? 22 A. Yes, I think so. 23 Q. They haven't expressed any 24 displeasure with the work that you've</p>	<p style="text-align: center;">172</p> <p>1 couldn't tell you for sure, but I 2 believe I did. 3 Q. Okay. And that report 4 would have been something that you 5 would have tried to be careful, 6 objective and impartial in as well; 7 is that right? 8 A. Certainly. 9 MR. BIZAR: Let me mark as 10 the next document this e-mail. 11 (Exhibit Jones 17 was 12 marked for identification.) 13 BY MR. BIZAR: 14 Q. I've had the court reporter 15 mark a one-page document as Exhibit 16 17. It appears to be a series of 17 e-mails between you and Mr. Lonni 18 Rutt and then Mr. Rutt passing that 19 e-mail on to various other people. 20 And the e-mails are dated 21 September 9 in terms of your e-mail 22 to Mr. Rutt and Mr. Rutt's e-mail 23 forwarding your message is September 24 10.</p>
<p style="text-align: center;">171</p> <p>1 done? 2 A. No, no. 3 Q. And the work that you've 4 done for them you've always tried to 5 use your best judgment? 6 A. Yes, sir. 7 Q. And to be independent and 8 impartial? 9 A. Yes, sir. 10 Q. And to answer the questions 11 that you are asked to address in a 12 professional and comprehensive way; 13 is that right? 14 A. That's correct. 15 Q. And in connection with the 16 work that you did for Atlantic 17 Mutual, you did the investigation 18 that included the optical 19 examination, the sampling that we 20 discussed? 21 A. That's correct. 22 Q. And you claim that you 23 wrote a report for them? 24 A. I believe I did. I</p>	<p style="text-align: center;">173</p> <p>1 Do you see that? 2 A. Yes, sir. 3 Q. And in your e-mail -- first 4 of all, is that your e-mail to Mr. 5 Rutt? 6 A. Yes, sir. 7 Q. And you write -- and you 8 wrote it on or around September 9 -- 9 A. Yes, sir. 10 Q. -- 2004? And it regards 11 the boat Javelin, which is the 12 Tortora yacht? 13 A. Yes, sir. 14 Q. And it reflects the work 15 that was done as part of your 16 investigation on behalf of Atlantic 17 Mutual; is that right? 18 A. That's correct. 19 Q. And in your e-mail message 20 to Mr. Rutt you write, "Lonni, I have 21 copies of the work performed by TRI 22 and will forward them along. As for 23 a written opinion, I was not asked to 24 produce one as the work was</p>



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<p style="text-align: center;">174</p> <p>1 inconclusive as to a direct cause. 2 "As we discussed, it did 3 point out that manufacturing was not 4 the cause." 5 Do you see that? 6 A. Yes, I do. 7 Q. Does that refresh your 8 recollection as to whether or not you 9 prepared a written opinion to 10 Atlantic Mutual? 11 A. Yes, it sure does. 12 Q. And so you don't think, now 13 having read this exhibit, Exhibit 17, 14 that you, in fact, prepared a written 15 opinion to Atlantic Mutual? 16 A. It appears that I did not. 17 Q. And you, therefore, did not 18 prepare a written opinion that said 19 that the gel coat was materially 20 defective to Atlantic Mutual; is that 21 right? 22 A. That's correct. 23 Q. And TRI, which is 24 referenced in this e-mail, what is</p>	<p style="text-align: center;">176</p> <p>1 A. The heat of exotherm is 2 when you put a known amount of heat 3 into a material and it gives off more 4 heat than you put in. 5 Exotherm is a reaction when 6 two chemicals are -- you either have 7 endothermic or exothermic reactions. 8 They either take heat or they cause 9 heat. 10 Exotherm is causing heat. 11 And when you put additional heat in, 12 it drives the cure to completion and 13 in the process it will give off heat. 14 Q. And these tests, are they 15 tests on the gel coat material? 16 A. Yes. 17 Q. And as you report in your 18 e-mail to Mr. Rutt, the testing that 19 was done by TRI was inconclusive as 20 to a direct cause? 21 A. Yes, sir. 22 Q. So the TRI testing, the DMA 23 testing and the Tg, I'm sorry, the 24 DMA testing and the heated exotherm</p>
<p style="text-align: center;">175</p> <p>1 TRI? 2 A. Texas Research Institute. 3 Q. And that was an institute 4 that you had engaged to look at the 5 samples; is that right? 6 A. That's correct. 7 Q. And they carried out a 8 number of tests? 9 A. Yeah. There was a couple 10 that they did. 11 Q. Do you recall what the 12 tests were? 13 A. I think it was DMA and -- 14 yeah, I think it was just the DMA 15 test. And they ran it twice to get 16 the Tg and also again to get the 17 heated exotherm. 18 Q. And the Tg is glass 19 transition temperature? 20 A. Yes, sir. 21 Q. And the heated exotherm, 22 just tell it to me like I'm six years 23 old in the words of Denzell 24 Washington, what is that?</p>	<p style="text-align: center;">177</p> <p>1 testing were inconclusive. 2 They did not demonstrate 3 that the gel coat was to blame for 4 the cracking; is that right? 5 A. It also -- as I state in 6 the report, that it did not -- you 7 know, the manufacturer was not the 8 cause either. 9 Q. It said -- well, just so 10 I'm clear, it didn't say that the gel 11 coat was the cause, right? 12 A. Correct. 13 Q. And it didn't say that the 14 manufacturer was the cause? 15 A. Correct. 16 Q. Okay. 17 MR. BIZAR: Let's mark 18 this. 19 (Exhibit Jones 18 was 20 marked for identification.) 21 BY MR. BIZAR: 22 Q. I've had the court reporter 23 hand to you as Defendant's Exhibit 18 24 a multi-page document that consists</p>



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<p style="text-align: center;">178</p> <p>1 of a fax transmittal, an e-mail, and 2 then a series of DSC thermogram 3 graphs. Take a moment and look that 4 over. 5 A. Okay. 6 Q. Do you recognize 7 Defendant's Exhibit 18? 8 A. Yes, sir. 9 Q. Tell me what it is. 10 A. This was the results of the 11 testing that TRI did. 12 Q. In connection with the 13 Tortora boat? 14 A. That's correct. 15 Q. This is the testing that 16 you reported to Mr. Rutt was 17 inconclusive? 18 A. Yes, sir. 19 Q. That did not cast blame for 20 the cracking on the manufacturer or 21 on the gel coat manufacturer? 22 A. That is correct. 23 Q. Okay. And TRI is 24 independent in this process, right?</p>	<p style="text-align: center;">180</p> <p>1 what Mr. Wolf does at TRI Associates. 2 A. Mr. Wolf does not work for 3 TRI. 4 Q. Oh, who does he work for? 5 A. I think it's B.F. Goodrich 6 now. 7 Q. Okay. At the time of this 8 e-mail did he work for TRI? 9 A. No. 10 Q. Why is he involved in 11 sending this e-mail then? Do you 12 know? 13 A. He's a friend. He used to 14 work for me. 15 Q. I see. 16 A. And I value his opinion. 17 Q. So you asked him to look at 18 the test results? 19 A. Uh-huh. 20 Q. As an independent person 21 whose opinion you value? 22 A. Uh-huh. 23 Q. And he had no financial 24 stake in the matter either?</p>
<p style="text-align: center;">179</p> <p>1 A. Yes, sir. 2 Q. They have no interest, no 3 financial stake one way or the other; 4 isn't that right? 5 A. That's correct. 6 Q. And the e-mail, which is 7 the second page of Defendant's 8 Exhibit 18, is an e-mail to you at 9 D.E. Jones & Associates dated May 1, 10 2004, 10:17 a.m. 11 Do you see that? 12 A. Yes. 13 Q. Did you see that e-mail and 14 the attachments? 15 A. Yes, I did. 16 Q. And did you receive it on 17 or around that date? 18 A. That's -- yeah, I would 19 assume so. 20 Q. And the person who wrote 21 the e-mail is Art. 22 Is that Art Wolf? 23 A. Yes, it is. 24 Q. And Mr. Wolf -- tell me</p>	<p style="text-align: center;">181</p> <p>1 A. None. 2 Q. Like you at the time, he 3 was working to give an objective, 4 impartial assessment, correct? 5 A. That's correct. 6 Q. And when it says 7 Frptestguru@aol.com, was that Mr. 8 Wolf's e-mail address? 9 A. Yes, sir. 10 Q. So he's writing to you from 11 his e-mail address and you received 12 this e-mail, right? 13 A. That's correct. 14 Q. Read the text of the 15 e-mail. 16 A. I've read it. 17 Q. Okay. He says, "I have 18 reviewed the FTIR and DSC data you 19 sent." 20 Is that the data that's 21 attached to this e-mail? 22 A. That's correct. 23 Q. He then says, "I would have 24 the following comments. FTIR - the</p>



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<p style="text-align: center;">182</p> <p>1 two infrared scans are essentially 2 the same so the two samples were 3 formulating" -- "formulated using the 4 same organic constituents. 5 "The peaks, which represent 6 structure and functional groups, are 7 the same." 8 Did I read that correctly? 9 A. That's right 10 Q. And what is the FTIR? 11 A. Four-year transform 12 infrared spectroscopy. 13 Q. So it's an infrared scan; 14 is that right? 15 A. That's correct. 16 Q. And the two scans, is he 17 looking at one sample that's cracked 18 and one sample that's not cracked? 19 A. Yeah. The top one on page 20 4120, VK 004120, the last page, it 21 doesn't identify the top scan but my 22 recollection -- let's see, gel coat 23 1A. Yes, these were both from the 24 Tortora boat.</p>	<p style="text-align: center;">184</p> <p>1 calorimeter. 2 Q. And he then writes, "There 3 does not appear to be anything wrong 4 or different about this data. So 5 without further information, I would 6 conclude that the gel coat damage was 7 caused by some other source. 8 "Perhaps the vessel was 9 under a tarp or covered for several 10 years in storage, perhaps the vessel 11 was stored downwind of a spray booth 12 or paper mill, perhaps the damage was 13 caused by a poor buffing job (large 14 grit), perhaps the vessel was 15 acid-washed." 16 Do you see that? 17 A. Yes. 18 Q. And I read that correctly? 19 A. Yes, you did. 20 Q. Mr. Wolf then writes, "I 21 would look for chemical, biological, 22 mechanical or environmental agents 23 for the cause of this damage. The 24 pictures you sent look more like</p>
<p style="text-align: center;">183</p> <p>1 Q. Was one affected and one 2 not affected or were they both 3 affected? 4 A. No. I believe -- I don't 5 recall. I believe all the samples 6 that we took from the Tortora boat, 7 my recollection is they all were 8 affected. 9 Q. Okay. And he then writes 10 in his e-mail to you, Mr. Wolf 11 writes, "DSC - the graph marked 'gel 12 coat round sample' shows a little 13 reactivity left, represented by an 14 exotherm around 115 degrees to 120 15 degrees Celsius. 16 "This is normal for 17 thermoset polyester resins. None of 18 these resins cure completely at 19 ambient temperatures." 20 Do you see that? 21 A. Yes. 22 Q. And the DSC, tell me what 23 that refers to. 24 A. Differential scanning</p>	<p style="text-align: center;">185</p> <p>1 gouges and not like typical gel coat 2 cracks. 3 "After the damage was done, 4 the gouges became more noticeable," 5 I'm sorry, "became noticeable when 6 they filled with dirt/buffing, 7 compound/wax." 8 Do you see that? 9 A. Yes, I do. 10 Q. And I read that correctly? 11 A. Yes, you did. 12 Q. And then he says, "This is 13 just hypothesis based on what I've 14 seen. Hope this helps, Art." 15 So Mr. Wolf is writing to 16 you and he says, in essence, that he 17 doesn't think the gel coat is to 18 blame; isn't that right? 19 MR. WEISZ: Object to the 20 form. 21 THE WITNESS: I don't know 22 if I could interpret that out of it. 23 It was inconclusive. 24 BY MR. BIZAR:</p>



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<p style="text-align: center;">186</p> <p>1 Q. Okay. So the best you'll 2 say is that it's inconclusive as to 3 the cause? 4 A. Yeah. 5 Q. And that was consistent 6 with the information that you 7 transmitted to Mr. Rutt? 8 A. Yes. 9 Q. So your opinion on behalf 10 of Atlantic Mutual was the source of 11 the gel coat cracking witnessed on 12 the Tortora yacht was inconclusive as 13 to cause? 14 A. Yes, sir. 15 MR. WEISZ: Objection to 16 form. 17 THE WITNESS: Yes, I do. 18 BY MR. BIZAR: 19 Q. Did you ever see a report 20 by CCP regarding the gel coat 21 cracking in the Tortora yacht? 22 A. I don't recall. I don't 23 believe I did. 24 MR. BIZAR: Let me mark</p>	<p style="text-align: center;">188</p> <p>1 Q. So you did not consider 2 Defendant's Exhibit 18 in connection 3 with your opinion in this case; is 4 that right? 5 A. I don't recall seeing this, 6 so I guess that would be correct. 7 Q. And the conclusions that 8 Mr. Malle summarizes in his 9 transmittal letter to Mr. Heller, 10 which is the last page of this 11 exhibit, essentially is the same? 12 I'm sorry? 13 A. I stand corrected. 14 Q. So you do think you saw it? 15 A. I did review this. 16 Q. Okay. And the conclusions 17 that Mr. Malle summarizes in the last 18 page of his letter -- in the last 19 page of the exhibit, his letter to 20 Mr. Heller, is that "It's reasonable 21 to conclude that the cracking 22 witnessed in 55-945 was a result of 23 treatments or conditions outside of 24 the control of either CCP or Viking</p>
<p style="text-align: center;">187</p> <p>1 this. 2 (Exhibit Jones 19 was 3 marked for identification) 4 BY MR. BIZAR: 5 Q. Defendant's Exhibit 19 is a 6 multi-page document titled 7 "Determination of the Root Cause of 8 Cracking in Viking Boat #55-945," 9 dated June 4, 2004. 10 And attached to it at the 11 end as the last page is a file copy 12 of a letter from Ed Malle to Bill 13 Heller at Viking dated June 8, 2004. 14 Have you seen this document 15 before today? 16 A. No. 17 Q. In the cover letter, which 18 I can -- you can just turn your 19 attention -- well, take as long as 20 want -- take as long as you need to 21 take to look through the document, 22 then let me know when you're done. 23 A. (Witness reviews document.) 24 Okay.</p>	<p style="text-align: center;">189</p> <p>1 Yacht Company." 2 Do you see that? 3 A. No. 4 Q. Last page. 5 A. (Indicating.) 6 Q. Do we not have the 7 document? I'm sorry. I thought when 8 I had described the document, you had 9 this page. 10 A. Mine goes up to CCP 08152. 11 Q. We're going to make a 12 correction. I'm going by the DEJ 13 numbers, which are up to 197. 14 A. I have 196. 15 Q. We'll fix that right now. 16 MR. BIZAR: Let's just go 17 off the record for a second. 18 THE VIDEOGRAPHER: Going 19 off the video record. The time is 20 12:52 p.m. 21 (A break was taken at this 22 time.) 23 THE VIDEOGRAPHER: Back on 24 the video record. The time is</p>



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<p style="text-align: center;">190</p> <p>1 1:01 p.m. 2 MR. BIZAR: When we marked 3 Defendant's Exhibit 18 (sic), I 4 thought we were marking a document 5 that included Bates numbers from DEJ 6 191 through 197 but apparently we 7 only went up to 196 on the copy. 8 We've now made a copy of 9 the document that includes page 197 10 and I'd like to have that 11 substituted, if I may, for Exhibit 12 18. So if – 13 THE WITNESS: 19. 14 MR. BIZAR: 19 rather. So 15 if you could take Exhibit 19 off-line 16 and put in Exhibit 19 with the right 17 pages, that would be terrific. 18 (Exhibit Jones 19 was 19 re-marked for identification.) 20 MR. BIZAR: Let's start 21 again. 22 BY MR. BIZAR: 23 Q. Mr. Jones, I've handed you 24 as Defendant's Exhibit 19 a document</p>	<p style="text-align: center;">192</p> <p>1 A. That's correct. 2 Q. The testing was 3 inconclusive as to the source of the 4 gel coat cracking. It could not cast 5 blame on the gel coat and it could 6 not cast blame on Viking's 7 manufacturing process; isn't that 8 right? 9 A. That's correct. 10 Q. And you don't have any 11 basis for disagreeing with or, 12 rather, you didn't have any basis for 13 disagreeing with Mr. Malle's 14 conclusions at the time of your 15 discussions with Atlantic Mutual in 16 the fall of 2004; is that right? 17 A. I don't believe I saw this 18 in 2004. 19 Q. Okay. But you did see the 20 TRI results at the time? 21 A. Yes, sir, I did. 22 Q. And you'd have no basis for 23 disagreeing with those results? 24 A. No, no. TRI, I was okay</p>
<p style="text-align: center;">191</p> <p>1 that has Bates numbers DEJ 191 2 through 197. Take a moment, look 3 this over, particularly the last 4 page. 5 A. (Witness reviews document.) 6 Okay. 7 Q. Mr. Malle in the 8 transmittal letter to Mr. Heller, the 9 page that has Bates Number DEJ 197, 10 has a paragraph summarizing the 11 results of the various tests that CCP 12 did as part of its investigation. 13 Is that right? 14 A. That's correct. 15 Q. And those tests are also 16 summarized in the investigation 17 report and the conclusions which are 18 set forth in that paragraph are 19 summarized on pages 196 and 197; is 20 that right? 21 A. That's correct. 22 Q. And the conclusions are 23 essentially the same as the 24 conclusions of TRI; isn't that right?</p>	<p style="text-align: center;">193</p> <p>1 with those. 2 Q. And you don't think that 3 you saw this report to Viking in 4 2004? 5 A. No. I wouldn't have seen 6 it until – 7 Q. Until this litigation? 8 A. Yes, sir. 9 Q. Do you disagree with the 10 summary that Mr. Malle has provided 11 and the content of this investigative 12 report by CCP? 13 A. Yes. I do agree with it as 14 far as the testing that was 15 performed. 16 Q. I'm sorry. You agree with 17 it? 18 A. Yes. As far as the testing 19 that was performed. 20 Q. So you agree that the test 21 results reported in this 22 investigation report are true and 23 accurate as reported in this report, 24 Defense Exhibit 19?</p>



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<p style="text-align: center;">194</p> <p>1 A. They are representative of</p> <p>2 the tests that were performed.</p> <p>3 Q. And the results obtained as</p> <p>4 a result of those tests?</p> <p>5 A. Yes.</p> <p>6 Q. And the conclusions that</p> <p>7 Mr. Malle drew or that CCP drew from</p> <p>8 those test results, do you understand</p> <p>9 those conclusions as being accurate?</p> <p>10 A. Accurate to the tests that</p> <p>11 were performed.</p> <p>12 Q. Okay. And you didn't do</p> <p>13 any testing on your own of the</p> <p>14 Tortora yacht, correct?</p> <p>15 A. No. Of the Tortora, no, I</p> <p>16 did not.</p> <p>17 Q. The work that you did in</p> <p>18 this case – well, let me go back.</p> <p>19 Do you know that the</p> <p>20 Tortora boat was repaired by Viking?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Were you consulted with</p> <p>23 regard to those repairs?</p> <p>24 A. They told me what they were</p>	<p style="text-align: center;">196</p> <p>1 that you did and the work that you</p> <p>2 did on behalf of Atlantic Mutual;</p> <p>3 isn't that right?</p> <p>4 A. That's right.</p> <p>5 MR. BIZAR: Mark this as</p> <p>6 Defendant's Exhibit 20.</p> <p>7 (Exhibit Jones 20 was</p> <p>8 marked for identification.)</p> <p>9 BY MR. BIZAR:</p> <p>10 Q. I've had the court reporter</p> <p>11 mark a document as Defendant's</p> <p>12 Exhibit 20.</p> <p>13 That's a multi-page letter</p> <p>14 from a lawyer named Rich Mannella at</p> <p>15 Atofina dated April 23, 2004 to a</p> <p>16 lawyer named Don Sweetman at Gennet,</p> <p>17 Kallman.</p> <p>18 Have I accurately described</p> <p>19 Exhibit 20?</p> <p>20 A. Yes.</p> <p>21 Q. And Atofina, I'll represent</p> <p>22 to you, at the time of this letter</p> <p>23 was responsible for assisting CCP</p> <p>24 with regard to legal disputes. Okay?</p>
<p style="text-align: center;">195</p> <p>1 going to do and what my opinion was.</p> <p>2 Q. And what did they tell you?</p> <p>3 A. They told me they were</p> <p>4 going to strip it and re-gel coat it.</p> <p>5 Q. Did they tell you what gel</p> <p>6 coat they were going to use?</p> <p>7 A. I don't recall.</p> <p>8 Q. Did you counsel them with</p> <p>9 regard to what gel coat they should</p> <p>10 use?</p> <p>11 A. I don't recall.</p> <p>12 Q. Do you know whether CCP or</p> <p>13 its agents and representatives</p> <p>14 expressed a view as to the repair</p> <p>15 methods that were going to be</p> <p>16 employed in repairing the Tortora</p> <p>17 yacht?</p> <p>18 A. No, I wouldn't know that.</p> <p>19 Q. Did you ever inspect the</p> <p>20 Tortora yacht after it was repaired?</p> <p>21 A. Not to my recollection, no.</p> <p>22 Q. In fact, the only time that</p> <p>23 you recall seeing the Tortora yacht</p> <p>24 was in connection with the sampling</p>	<p style="text-align: center;">197</p> <p>1 A. Okay.</p> <p>2 Q. Do you know Mr. Sweetman?</p> <p>3 A. Not personally, but I</p> <p>4 believe that I worked with him.</p> <p>5 Q. And he was – you worked</p> <p>6 with him in connection with your work</p> <p>7 on behalf of Atlantic Mutual; is that</p> <p>8 right?</p> <p>9 A. That's right.</p> <p>10 Q. And he was, in fact, the</p> <p>11 person who gave you permission to</p> <p>12 collaborate with Viking?</p> <p>13 A. I believe that's true.</p> <p>14 Q. Okay. And Mr. Mannella</p> <p>15 writes to Mr. Sweetman and on the</p> <p>16 last page of the letter, in the</p> <p>17 second-to-last paragraph, this is the</p> <p>18 page that has the Bates number VK</p> <p>19 1624, Mr. Mannella writes, "In</p> <p>20 addition, CCP believes the cracking</p> <p>21 exhibited by this five year-old</p> <p>22 vessel extends into the laminate</p> <p>23 layers.</p> <p>24 "As such, CCP does not</p>



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<p style="text-align: center;">198</p> <p>1 believe the repairs (stripping the 2 hull and respraying the gel coat 3 layer) is appropriate. 4 "Therefore, CCP does not," 5 not is underlined, "recommend the use 6 of any CCP gel coat product for the 7 repairs being undertaken." 8 Do you see that? 9 A. Yeah, I sure do. 10 Q. And CCP -- you understand 11 that CCP is telling them not to use 12 their gel coat to repair the boat? 13 A. Yes, I do. 14 Q. Do you know whether Viking 15 used CCP's gel coat to repair the 16 Tortora boat? 17 A. No. I wouldn't know, but I 18 know why they recommend that. 19 Q. Tell me why. 20 A. Well, because they do not 21 like to use their materials -- CCP 22 does not like to have their material 23 used for post finishing applications. 24 The gel coat is formulated</p>	<p style="text-align: center;">200</p> <p>1 Tortora yacht, right? 2 A. I understand that that's 3 their opinion. 4 Q. Right? 5 A. Yeah. 6 Q. Okay. Do you know whether 7 CCP's 953 Series gel coat was used in 8 the repair of the Tortora boat? 9 A. No. 10 Q. You said you don't know? 11 A. No, I don't know. 12 Q. If it was used, would you 13 view that as being the responsibility 14 of the manufacturer, in other words, 15 the manufacturer's choice? 16 A. Meaning the builder's 17 choice? 18 Q. Yes. The builder's choice. 19 A. Oh, certainly, it would be 20 the builder's choice. 21 Q. Okay. Now, I asked you 22 earlier today about Dr. Strong's 23 report. You said that you had 24 reviewed it.</p>
<p style="text-align: center;">199</p> <p>1 to be an in-mold coating. 2 And what that means is that 3 it's supposed to go onto a mold 4 surface and then a laminate placed 5 behind it to -- essentially the 6 additional heat of the laminate helps 7 drive the cure through. And that's 8 the whole reason. 9 They don't like it post 10 applied, although I have employed CCP 11 in the refinishing of the Typhoon 12 Lagoon slides at Disney World in 13 Orlando and were very successful. 14 In fact, it was far 15 superior than the original in-mold 16 coating. So... 17 Q. I'll tell them that you 18 appreciated the work. But my 19 question is really -- 20 A. I've already told them. 21 Q. My question is really you 22 understand this direction as being 23 clear and unequivocal not to use 24 CCP's products in the repair of the</p>	<p style="text-align: center;">201</p> <p>1 A. I read it last night. 2 Q. Had you not read it prior 3 to last night? 4 A. No. Last night was the 5 first time I saw it. 6 Q. And you haven't read it in 7 connection with the opinion that you 8 issued in this report -- in this 9 case; is that right? 10 A. That's correct. 11 Q. And your opinion was not in 12 response to that report? 13 A. No. Last night was the 14 first time I had seen it. 15 Q. And so you are not going to 16 be addressing his report in your 17 testimony at trial; is that correct? 18 A. No. I wouldn't imagine I 19 would be. 20 Q. You have provided to us as 21 part of your compliance with our 22 subpoena a collection of invoices for 23 the time that you spent on this 24 matter?</p>



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<p style="text-align: center;">202</p> <p>1 A. Okay.</p> <p>2 Q. Did you know that?</p> <p>3 A. I'm sure I did.</p> <p>4 MR. BIZAR: And I'd like to</p> <p>5 just mark these as the next exhibit,</p> <p>6 which is 21.</p> <p>7 (Exhibit Jones 21 was</p> <p>8 marked for identification.)</p> <p>9 BY MR. BIZAR:</p> <p>10 Q. The invoices that I have</p> <p>11 from the production are numbered DEJ</p> <p>12 pages 2, 3, 4 and 5.</p> <p>13 Do you see that?</p> <p>14 A. Okay.</p> <p>15 Q. Are these an accurate</p> <p>16 collection of your bills in this</p> <p>17 matter to date?</p> <p>18 A. To the best of my</p> <p>19 knowledge, yes.</p> <p>20 Q. And the first invoice,</p> <p>21 which is the last page -- we're going</p> <p>22 in reverse chronological order -- is</p> <p>23 dated as of October 13, 2006.</p> <p>24 Do you see that?</p>	<p style="text-align: center;">204</p> <p>1 prepared for you by Mr. Weisz; is</p> <p>2 that right?</p> <p>3 A. Correct.</p> <p>4 Q. And what material was in</p> <p>5 that binder?</p> <p>6 A. Reams and reams of</p> <p>7 information, some of which is listed</p> <p>8 at the back of my report in the</p> <p>9 reference list.</p> <p>10 Q. And it's a single binder,</p> <p>11 to the best of your recollection?</p> <p>12 A. Oh, I would be surprised if</p> <p>13 it was just one.</p> <p>14 Q. It says only binder. It</p> <p>15 doesn't say binders.</p> <p>16 A. Correct.</p> <p>17 Q. Do you recall one way or</p> <p>18 the other?</p> <p>19 A. I believe there were more</p> <p>20 than one.</p> <p>21 Q. Okay. And this information</p> <p>22 was compiled or selected for you by</p> <p>23 Mr. Weisz?</p> <p>24 A. Yes, sir.</p>
<p style="text-align: center;">203</p> <p>1 A. Yes.</p> <p>2 Q. And that reflects all of</p> <p>3 your work on this engagement up until</p> <p>4 that time; is that right?</p> <p>5 A. We're looking at --</p> <p>6 Q. Page five.</p> <p>7 A. Page five. As of -- from</p> <p>8 September to October 13, yes.</p> <p>9 Q. And it shows basically 18</p> <p>10 hours or so of work?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And some of that time</p> <p>13 includes time that you spent reading</p> <p>14 Viking DDP binder?</p> <p>15 A. Yes.</p> <p>16 Q. What does DDP refer to?</p> <p>17 A. I think that's a typo and</p> <p>18 it should say CCP.</p> <p>19 Q. Okay.</p> <p>20 A. I don't know what DDP would</p> <p>21 be, so that's my guess.</p> <p>22 Q. German Democratic Republic.</p> <p>23 So CCP.</p> <p>24 And that binder was</p>	<p style="text-align: center;">205</p> <p>1 Q. What criteria did he</p> <p>2 employ?</p> <p>3 A. I have no idea.</p> <p>4 Q. Did you tell Mr. Weisz what</p> <p>5 to provide you?</p> <p>6 A. No, no.</p> <p>7 Q. So he decided -- he</p> <p>8 selected documents to provide to you;</p> <p>9 is that right?</p> <p>10 A. Yes, I would assume so.</p> <p>11 Q. And you understand that the</p> <p>12 documents that have been provided to</p> <p>13 you in this case, which are listed in</p> <p>14 your report in the reference list of</p> <p>15 materials, are not the entirety of</p> <p>16 the documents that have been produced</p> <p>17 in this lawsuit; is that right?</p> <p>18 A. Oh, I understand that.</p> <p>19 Q. Okay. And you didn't tell</p> <p>20 Mr. Weisz what information to give</p> <p>21 you?</p> <p>22 A. No, sir.</p> <p>23 Q. Okay. If you look at the</p> <p>24 next document, which is the</p>



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<p style="text-align: center;">206</p> <p>1 document -- the invoice dated 2 December 4, 2006. That's page four. 3 A. Yeah. 4 Q. You see there -- 5 A. DDP. 6 Q. -- reading "Viking DDP from 7 Mr. Weisz." 8 A. Yeah. 9 Q. And, again, that is the 10 same binder or same information; is 11 that right? 12 A. Yes. 13 Q. So you're continuing to 14 read that information, right? 15 A. Yes. 16 Q. And then there's a 17 reference to an e-mail to R. Rushing 18 regarding test procedures? 19 A. Yes. 20 Q. Who is Mr. Rushing? 21 A. He was the senior chemist 22 at TRI. 23 Q. So was he involved in or 24 supervising the test results that had</p>	<p style="text-align: center;">208</p> <p>1 office? 2 A. Yes. 3 Q. And what did you discuss 4 there? 5 A. We discussed the documents 6 and the litigation and, you know, 7 where my forte was and, you know, 8 just help him get our arms around the 9 situation. 10 Q. Did he discuss with you 11 what he was looking for in the case? 12 A. Yeah, I guess so. Yes, I'm 13 sure we did. 14 Q. Okay. And what did you 15 say? 16 A. Well, I told him what I was 17 able to do. 18 Q. What your expertise or 19 qualifications were? 20 A. Yeah, yeah. 21 Q. These 14 hours that's 22 reflected here as a time entry for 23 September 28, 2006, a substantial 24 portion of that includes the travel</p>
<p style="text-align: center;">207</p> <p>1 been done on behalf of Atlantic 2 Mutual back in 2004? 3 A. Yes, sir. 4 Q. And did Mr. Rushing respond 5 to your e-mail or speak with you? 6 A. Yeah. We must have had a 7 conversation. 8 Q. Do you recall what was 9 said? 10 A. No, I don't recall exactly. 11 Q. Okay. 12 A. I'm not sure what 13 procedures we were talking about at 14 that time. 15 Q. Do me a favor and turn back 16 to the prior page, which is page 5. 17 It says, "Travel and on site, Miami, 18 Florida, airfare, return travel." 19 Do you see that? 20 A. Yes. 21 Q. What was that trip about? 22 A. That was going to spend a 23 little time with Mr. Weisz. 24 Q. Did you meet him in his</p>	<p style="text-align: center;">209</p> <p>1 to and from Miami; is that right? 2 A. That would have been four 3 hours. 4 Q. Did you drive? 5 A. No. 6 Q. You took a plane? 7 A. Yeah. 8 Q. And the balance of it was 9 meeting with Mr. Weisz or did you 10 spend some time waiting for the 11 plane? 12 A. Well, it's a one-hour plane 13 trip and there's travel to the 14 airport and waiting time and then you 15 get on the plane and you travel 16 there. And we spent the major 17 portion of the day together. 18 Q. Did you spend ten hours 19 with Mr. Weisz? 20 A. Probably pretty close to 21 it. 22 Q. Did you look at documents 23 while you were with him? 24 A. Yes, sir.</p>



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<p style="text-align: center;">210</p> <p>1 Q. And those documents are 2 documents that would have been 3 identified to me? 4 A. Yes, sir. 5 Q. They're included among the 6 documents listed in your report? 7 A. The documents that I've 8 received are probably close to two 9 banker's box full. 10 Q. Okay. 11 A. And what I listed here was 12 the ones that I used in direct 13 reference to what I was -- 14 Q. Okay. 15 A. The rest of them, I looked 16 at them. 17 Q. Didn't feel the need to? 18 A. Most of them I read. Some 19 of them were gobbledygook or gook and 20 I just I read them but... 21 Q. The second page of Defense 22 Exhibit 21, the page numbered page 23 3 -- 24 A. Okay.</p>	<p style="text-align: center;">212</p> <p>1 hours maybe, eight hours. 2 Q. If Dr. Caruthers billed for 3 half a day for that meeting, would 4 that refresh your recollection that 5 it was a half a day? 6 A. That would be about right, 7 four to six hours, something like 8 that. 9 Q. But you would defer to Dr. 10 Caruthers if his bill was specific on 11 the length of the meeting? 12 A. He was -- I think this was 13 a place that he was staying at on 14 vacation or something -- 15 Q. On vacation, correct. 16 A. -- like that, so yeah. 17 Q. Okay. Now, while we're on 18 the subject of Dr. Caruthers, have 19 you had a chance to read his report? 20 A. No, sir. 21 Q. Have you ever seen his 22 report? 23 A. No, sir. 24 Q. Did you see his report in</p>
<p style="text-align: center;">211</p> <p>1 Q. -- refers to your travel to 2 and from a meeting in Vero Beach? 3 A. Yes, sir. 4 Q. And that was a meeting with 5 Dr. Caruthers? 6 A. That's correct. 7 Q. And Viking personnel? 8 A. Yes, sir. 9 Q. There were no Post 10 personnel present at that meeting; is 11 that right? 12 A. No. That's correct. There 13 wasn't anybody from Post there. 14 Q. And you've billed an entire 15 day, 12-and-a-half-hour day, for that 16 trip, right? 17 A. That's right. I drove over 18 in the morning and drove back that 19 evening. 20 Q. And do you recall how long 21 the actual meeting with Dr. Caruthers 22 lasted? 23 A. No, I don't. But it was a 24 real good portion of the day, six</p>	<p style="text-align: center;">213</p> <p>1 draft form? 2 A. No, sir. 3 Q. Is your report in any way 4 or your opinion in this case in any 5 way contingent upon any of his 6 findings? 7 A. No. 8 Q. Is it in any way based on 9 any of his findings? 10 A. Well, I've never seen his 11 report, so no. 12 Q. And he also issued a 13 supplemental report. I assume you 14 haven't seen that? 15 A. I haven't seen any of his 16 work. 17 Q. So your opinion and your 18 report is not in any way based on his 19 supplemental report either? 20 A. That's correct. 21 Q. There are also opinions 22 that were issued by four other 23 individuals, Peter Maryott, Philip 24 Barton, Earl Hall, and Philip</p>



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<p style="text-align: center;">214</p> <p>1 Robeson.</p> <p>2 Did you see any of their</p> <p>3 reports in this case?</p> <p>4 A. No, not that I recall.</p> <p>5 Q. And your opinion then is</p> <p>6 not based on any of their opinions or</p> <p>7 their reports either?</p> <p>8 A. No, sir.</p> <p>9 Q. And you're not offering any</p> <p>10 opinion or you don't intend to offer</p> <p>11 any opinion at trial regarding the</p> <p>12 cost of repairs that Post or Viking</p> <p>13 may have had to make in this case?</p> <p>14 A. No. I would have -- having</p> <p>15 done a lot of repair procedures for</p> <p>16 broken boats, I would have a pretty</p> <p>17 good handle on it, but, you know, on</p> <p>18 what it would take to do the job.</p> <p>19 But, no, I haven't been tasked to do</p> <p>20 that.</p> <p>21 Q. And you haven't done that</p> <p>22 in your report?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. The final page of</p>	<p style="text-align: center;">216</p> <p>1 A. I called him, yes.</p> <p>2 Q. And you conferenced-in Dr.</p> <p>3 Caruthers?</p> <p>4 A. No, I did not.</p> <p>5 Q. But there's a reference to</p> <p>6 a teleconference with Dr. Caruthers</p> <p>7 and Mr. Wolf.</p> <p>8 Are those separate calls?</p> <p>9 A. Separate calls.</p> <p>10 Q. I see.</p> <p>11 A. It just happened to be on</p> <p>12 the same day.</p> <p>13 Q. So Mr. Wolf has never</p> <p>14 spoken with Dr. Caruthers, as far as</p> <p>15 you know, in connection with Dr.</p> <p>16 Caruthers' work in this matter?</p> <p>17 A. I wouldn't know.</p> <p>18 Q. Okay. But you were never</p> <p>19 involved in any such conversation?</p> <p>20 A. No. That's correct.</p> <p>21 Q. And in terms of the review</p> <p>22 and report writing, that's referenced</p> <p>23 as having occurred on August the 18th</p> <p>24 and 19th, 2007.</p>
<p style="text-align: center;">215</p> <p>1 the bill, I'm sorry, of Defendant's</p> <p>2 Exhibit 21, which is actually the</p> <p>3 first page, page two, refers to a</p> <p>4 variety of teleconferences that you</p> <p>5 had with Mr. Weisz and Dr. Caruthers.</p> <p>6 Do you see that?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Tell me what you discussed</p> <p>9 with Dr. Caruthers during those</p> <p>10 telephone conferences.</p> <p>11 A. I think Dr. Caruthers was</p> <p>12 getting ready to, I don't know, maybe</p> <p>13 formulate some questions or get his</p> <p>14 mind around what -- the situation.</p> <p>15 And he -- I think his words</p> <p>16 were he wanted to get the advice of</p> <p>17 somebody that had a little gray hair</p> <p>18 on the shop floor.</p> <p>19 And Art certainly has that</p> <p>20 kind of gray hair, that kind of</p> <p>21 experience. And we just went back</p> <p>22 and forth a couple of times.</p> <p>23 Q. And Mr. Wolf was involved</p> <p>24 in these discussions?</p>	<p style="text-align: center;">217</p> <p>1 Is that correct?</p> <p>2 A. That's what it says, yes.</p> <p>3 Q. When did you reach the</p> <p>4 opinions expressed in your report?</p> <p>5 When in relation to the date on which</p> <p>6 you wrote the report did you reach</p> <p>7 the opinions you expressed?</p> <p>8 A. Probably well before that.</p> <p>9 Q. And that was based on the</p> <p>10 work that's reflected in these bills?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Is there any work -- are</p> <p>13 there any other bills that have not</p> <p>14 been provided to me that are</p> <p>15 outstanding?</p> <p>16 A. No, there are not.</p> <p>17 Q. Do you expect to submit any</p> <p>18 additional bills?</p> <p>19 A. Just for today.</p> <p>20 Q. Do you have any ongoing</p> <p>21 projects that are related to the</p> <p>22 opinion that you would offer in this</p> <p>23 case?</p> <p>24 A. No. I have no ongoing</p>



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1 projects at the moment.
2 MR. BIZAR: Let's take a
3 five-minute break. I may be done.
4 THE VIDEOGRAPHER: Going
5 off the video record. The time is
6 1:23 p.m.
7 (A break was taken at this
8 time.)
9 THE VIDEOGRAPHER: Back on
10 the video record. The time is
11 1:24 p.m.
12 BY MR. BIZAR:
13 Q. In your written report, Mr.
14 Jones, you refer on the first page to
15 the phenomenon of gel coat cracking,
16 and you have two paragraphs about gel
17 coat cracking there.
18 Do you see that? It's the
19 third and fourth paragraphs that I'm
20 referring to.
21 A. Yes.
22 Q. And you list a number of
23 different causes of gel coat
24 cracking, "laminare problems, too

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1 having heard about gel coat problems,
2 read about them, seen gel coat
3 problems over the course of time,
4 would you say that the majority of
5 gel coat cracking problems result
6 from either application or
7 misapplication of the gel coat or
8 handling issues in the manufacturing
9 process?

10 A. Yes.

11 MR. BIZAR: I have nothing
12 further at this time.

13 MR. WEISZ: We'll read.

14 MR. BIZAR: Thank you very
15 much for your time, David.

16 THE WITNESS: That's quite
17 all right. Thank you.

18 THE VIDEOGRAPHER: This is
19 the end of tape three and concludes
20 the videotaped deposition of David
21 Evan Jones on January 30, 2008 at
22 1:26 p.m.

23 (Witness excused)

24 (Concluded at 1:26 p.m.)

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1 tight of a fit, not enough
2 reinforcement, voids, delamination,
3 de-molding," and it goes on.
4 Do you see that?
5 A. Yes, sir.
6 Q. All of those problems that
7 you've identified in these two
8 paragraphs are problems that relate
9 to the manufacturing process by the
10 boat builder; is that right?
11 A. Correct. That is correct.
12 Q. And they relate to the
13 application of the gel coat during
14 that process or other things that
15 occur during that process; is that
16 right?
17 A. Well, it's also the
18 handling of the boat after, after the
19 fact, the structure of the boat,
20 whether it's adequately structured.
21 Yes. It's basically around the
22 manufacturer.
23 Q. And in the course of your
24 experience in the marine industry and

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1
2
3 I hereby certify that I
4 have read the foregoing transcript of
5 my deposition testimony, and that my
6 answers to the questions propounded,
7 with the attached corrections or
8 changes, if any, are true and
9 correct.
10
11
12 _____
DATE DAVID E. JONES, III
13
14
15
16
17 _____
PRINTED NAME
18
19
20
21
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